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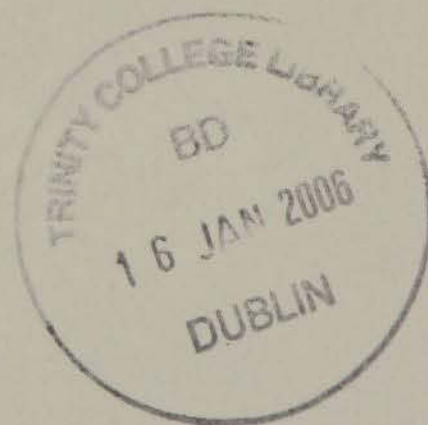
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revolution.

By Raymond J. Barrett.

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A COMPARATIVE STUDY OF IMPERIAL CONSTITUTIONAL
THEORY IN IRELAND AND AMERICA IN THE
AGE OF THE AMERICAN REVOLUTION

By Raymond J. Barrett



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What men do and why they do it is undoubtedly of much importance, but it is not the whole story. Of great importance, also, is their explanation and justification of what they are doing, which accounts for political theory.

C.F. Mullett, Fundamental Law and the American Revolution, 5.

What men in the past have believed to be true may well be as important to the historian as the actual truth.

L.H. Gipson, The Coming of the Revolution, 85.

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A COMPARATIVE STUDY OF IMPERIAL CONSTITUTIONAL
THEORY IN IRELAND AND AMERICA IN THE

AGE OF THE AMERICAN REVOLUTION



BY ROYALTY J. G.
THESIS

102

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A Comparative Study of Imperial Constitutional Theory
in Ireland and America in the Age of the American
Revolution.

ABSTRACT.

Irish imperial philosophy in the age of the American Revolution is lacking in well-defined constitutional theory. The Irish made many scattered comments bearing on constitutional problems, but there was not a paramount concern, as there was with the Americans, to formulate a system of imperial relationship. Many remarks were made almost unconsciously by authors in developing other points, or were stated as unwitting a priori assumptions. Although it is abundantly clear that the Americans' constitutional views were known to the Irish, the latter made few references to these theories. The literature construing the question as one of imperial constitutional theory must be assessed as significantly limited in Ireland as compared with America.

This evidence suggests that the analogy between Ireland and America as closely comparable problems in constitutional theory was not as direct as historical developments would tend to indicate. The contrast in the constitutional literature reflects the different situations in the empire of Ireland and the Colonies. America was becoming a very different nation and people from Great Britain, and the two countries were moving in opposite directions, each following all-nigh irresistible historical tendencies, the former towards massive self-government, and the latter toward empire. In fact, the Irish, although cast by circumstances in political relation to Britain, were far more akin to the British than to the Americans. For "Irish" must be read "Anglo-Irish". There was a

political cleavage between the patriot group and British administration supporters, but history, propinquity, and the influences of a minority position infused in the Ascendancy as a group, if not a community of interest, a considerable, subtle, often unconscious, extension of basic British attitudes. The Anglo-Irish primarily wished a freedom from direct restraints in order to develop in Ireland their British heritage their own way, but under general British imperial superintendance, rather than a fragmentation of the empire through distinct and rigid separation of interests.

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INTRODUCTION

This thesis is intended principally as a survey of Irish views as to the proper constitutional organisation of the British Empire in the 18th Century. This problem focussed in Irish eyes on the relation between the Kingdom of Ireland and the Crown and Parliament of Great Britain. I have tried to search out all expressions of these ideas now available. As a convenient framework for this compilation I have compared Irish views on imperial constitutional theory with those on the same subject expressed

This thesis is submitted for the degree of Doctor of Philosophy in the University of Dublin. I certify that this thesis is entirely my own work, and that no part of it has been submitted as an exercise for a degree at any other university.

Irish material in a manner similar to that in which these previous studies have examined the American material.

The specific period of Irish development examined is from 1753 to 1782, i.e., from the Salus Savandis dispute to the establishment of Orotten's Parliament. This time

period overlaps the comparable American period. It includes a number of constitutional developments approximately similar to the principal questions which arose in America; and it covers the gradual, albeit fitful, evolution of Irish

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June 17, 1958
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The specific period of Irish developments examined is from 1753 to 1782, i.e., from the Surplus Revenue dispute to the establishment of Grattan's Parliament. This time span overlaps the comparable American period. It includes a number of constitutional developments approximately similar to the principal questions which arose in America; and it covers the gradual, albeit fitful, evolution of Irish

ideas on constitutional relationships in an Empire in which the question of imperial organisation was coming to the fore. The period of comparison in America is from 1765, the Stamp Act, to 1776, the Declaration of Independence.

This thesis does not attempt to analyse in full detail the reasons why the Irish felt as they did. A measure of explanation is necessary to delineate the nature of Irish constitutional theories. I also offer some ideas to explain the Irish attitudes, but to go into complete detail on this subject would be beyond the scope of a manageable work. I hope that my more limited study will fit in with the other recent analyses of various aspects of the social, economic and religious background in Ireland during the 18th Century. Eventually, from these and further studies, it may be possible to draw together a comprehensive and considered examination of the pattern of Irish thought and deed in the 18th Century.

The quotations are perhaps more extensive than usual, but this thesis is a study of what men said. The best method of illustration, therefore, is to quote their salient remarks as occasion offers. With the sources so fragmentary and scattered, it also appears helpful thus to bring together in one place an adequate selection of the constitutional comment in verbatim form.

To make the discussion of ideas and individual viewpoints clear, and to avoid cluttering the text with explanatory material, I briefly describe in the first chapter the principal Irish constitutional issues in the age of the American

Revolution and indicate the leading individuals involved in these developments. Chapter II outlines the general contrast between the Irish comment on constitutional theory and that in America, and suggests some of the causes of this difference in attitude. Each of the following chapters (III to IX inclusive) is devoted to a discussion of a particular constitutional argument. In each case there is a rather extensive presentation of the Irish material followed by a briefer citation of representative American views on the topic, and then a comparison of the two sets of ideas and an examination of the divergence or similarity in viewpoint. The last chapter groups together and summarizes the relatively few comprehensive Irish expositions of constitutional doctrine or of the proper constitutional arrangement of the British Empire.

The particular constitutional arguments examined are suggested by the material that I have accumulated, and follow the pattern of Anglo-Irish thought. Conscious of the distinctive features of their position in Ireland they tended to stress the concept of Ireland as a separate nation, and yet, aware of their affinity to England, they placed great store on their rights as Englishmen and on historical precedents. The then almost universally accepted concept of natural law also occupied a prominent place in Irish thought. Inability to obtain effective representation in the Irish Parliament and to control Irish finances were the practical political difficulties faced by the patriot group,

and these topics naturally aroused widespread comment. The economic hardship caused by English imposed restraints on Irish commerce also provoked considerable protest and discussion.

The result was a subordination of Irish to English interests and only a desultory political development. The English Parliament several times exercised the right of binding Ireland by its legislation without the consent of the Irish Parliament, and in 1719 it passed a declaration act (6 of George I) emphatically asserting this right. The growing power and jealousy of English commercial interests led to English acts depriving Ireland of many valuable elements of commercial activity. Most of the leading officials and judges were regularly filled with Englishmen.

This situation was not conducive to the development of constitutional ideas, and only sporadically did constitutional incidents occur. Two of these incidents are noteworthy as antecedents of the constitutional developments of the latter part of the century.

The first of these incidents was the case of *Donnell* in 1711, when the Irish Parliament asserted its right to elect its own members without the consent of the English Parliament. This was a significant step towards the development of a separate Irish Parliament.

CHAPTER I

IRISH CONSTITUTIONAL ISSUES IN THE AGE OF THE AMERICAN REVOLUTION

The basic cast of Irish politics and society for more than a century was set by the defeat of James II and his Catholic Irish supporters in 1689-90. Great confiscations placed the resources and government of Ireland into the hands of a small Protestant (Anglican) minority, but that minority had only a limited security because of the hostility of the great destitute majority of the population. The Anglo-Irish were largely dependent for their safety on English support, and had no power of resisting conditions imposed on them.

The result was a subordination of Irish to English interests and only a desultory political development. The English Parliament several times exercised the right of binding Ireland by its legislation without the concurrence of the Irish Parliament, and in 1719 it passed a declaratory act (6 of George I) emphatically asserting this right. The growing power and jealousy of English commercial interests led to English acts depriving Ireland of many valuable avenues of commercial activity. Most of the leading official and church positions were regularly filled with Englishmen.

This situation was not conducive to the development of constitutional issues, and only sporadically did controversy occur. Two of these incidents are noteworthy as antecedents of the constitutional developments of the latter part of the

18th century. In 1698, amid the downfall of Irish commerce through English legislation, William Molyneux published his Case of Ireland Stated^{1/} which argued elaborately for the independence of the Irish Parliament. The reality of the situation and the temper of the times were demonstrated by the fact that the book was at once brought before the English House of Commons and formally condemned. In 1724 a furor was aroused in Ireland by the grant of a patent for the issuance of Irish copper coinage without consulting any Irish authority. (The patent was granted to the Duchess of Kendal, the King's mistress, who sold it to an English iron merchant named Wood.) The Wood's ^{note} pence controversy occasioned Jonathan Swift's Drapier's Letters^{2/} in which he claimed for the Irish legislature the right of self-government. The English Administration again took a poor view of such views, offering a reward for the apprehension of the author of the letters and seeking to prosecute the printer, both without success.

It was not until the second half of the 18th century that the sequence of events and issues began which produced a gradual, although fitful, evolution of Irish constitutional thought. The first constitutional dispute in Ireland after

1/ William Molyneux, The Case of Ireland being bound by Acts of Parliament in England stated, (Dublin 1698). This pamphlet is discussed on page 61 below.

2/ Herbert Davis, ed., The Drapier's Letters and Other Works 1724-25, Jonathan Swift.

the middle of the 1700s was over the disposal of the surplus revenue that accumulated in 1753. The question at issue was whether the King's prior consent was necessary to the Irish Parliament's action in directing the purposes to which the money was to be used. This dispute was actually a falling out among the 'Undertakers', the handful of Irish politicians who completely dominated Irish politics at that time^{3/}. The Lord Lieutenants only spent a few months of each year in Ireland, and in their absence this group of Irishmen 'undertook' to carry out the Government's business in Ireland in exchange for control of the Irish patronage. The two leading 'Undertakers,' Primate Stone and Boyle, Speaker of the House of Commons, had developed a personal animosity, and the revenue dispute was primarily an expression of their struggle against each other for place and power. However, it marked the beginning of a serious parliamentary opposition, and, expressed as it was in terms of the proper powers of the British Government and of the Irish Parliament, it raised constitutional questions that had long lain dormant.

Constitutional issues, once raised, began to crop up periodically. After the accession of George III in 1760 another controversy arose between the Irish Lords Justices and the English Privy Council regarding the propriety of sending a Money Bill to England as a reason for calling the

^{3/} For a good summary of this dispute see J.L. McCracken, "The Conflict between the Irish Administration and Parliament, 1753-6," in Irish Historical Studies, iii, pp. 159-179.

new Parliament. Poyning's Act of 1494 had required that all 'causes and considerations' for calling a Parliament in Ireland must be first certified to the King by the chief Governor and Council of Ireland, and affirmed by the King and his Council under the Great Seal of England. To meet this provision it had become customary to send over to England as a cause for summoning a new Parliament two or more Bills, one of which was a Bill of Supply. The Irish objected that a Money Bill was a free grant by the people to the sovereign and could not constitutionally originate in any body which was not specifically representative of the people. The controversy in 1760 subsided when the Irish Undertakers finally consented to support the Money Bill, and it was carried without difficulty through Parliament.

However, the new Parliament convened on the accession of George III produced the nucleus of a Patriot Group consistently seeking to exert what they felt to be the rights of Irishmen against the governance of Ireland for the sake of Britain.

Charles Lucas returned to Ireland and sat for Dublin. Lucas, an apothecary of moderate means and a cripple, had been carrying on a vociferous political agitation for many years. He made himself so obnoxious to the ruling powers in Ireland that Parliament, in 1749, at the instigation of the Government, had voted him an enemy to the country, and thus compelled him to live for several years in exile in

England. He was allowed to return in 1761. In the 1753 dispute, writing from England, he strongly denied the need for the King's prior consent to disposal of the surplus revenue, but his principal topic was the necessity of shortening the duration of Irish Parliaments. He was courageous and persistent, but showed few signs of intellectual distinction and was bitterly intolerant of varying views and of his Catholic countrymen. He died in Dublin in November 1771.

Henry Flood entered the Irish House of Commons in 1759. A son of a Chief Justice of the King's Bench, he possessed a considerable fortune and many political connections. Flood became the leader of a small party, known as Patriots, who maintained a consistent opposition to the Administration. The general object of this group was to obtain for Irish Protestants the English guarantees of liberty, and particularly to limit the duration of Parliament. This opposition was particularly strong and coherent in the controversy aroused by the actions of Townshend as Lord Lieutenant in the first half of the 1770s. In October 1775, under the Viceroyalty of Harcourt, Flood, after some hesitation and long negotiation, abandoned opposition, and accepted Government office as Vice-Treasurer. He justified his course with the assertion that the overwhelming strength of the Government made opposition futile and 'the only way anything could be effected for the

country was by going along with Government and making their measures diverge towards public utility'.^{4/} He remained in this position until dismissed in 1781 for failure to support Government measures. From about 1778 he had begun again to support Patriot causes, and after his dismissal by the Government he rejoined the Patriot Group. (Hardly was an autonomous Irish Parliament conceded when he split with Grattan as to the form that Britain's renunciation should take--the Simple Repeal issue--and the Patriot Group was fatally sundered before its objective was fairly won.)

Lord Charlemont, in the House of Lords, also became prominent after 1760 as a leading member of the Patriot Group. He had taken his seat in the Lords in 1753 in the hope of mediating between Stone and Boyle (to whom he was related), but had become ill, particularly in 1757, and was not able to take a consistent part in politics until 1760 and thereafter. He was close to Flood, but never forgave him for taking a Government position, and once Grattan became politically prominent he became his friend and close follower.

The first Parliament of George III was agitated during the 1760s by the demand for the limited duration of Parliament. Heads of a Bill were repeatedly carried through the Commons but rejected in England. A variety of motives and influences were at work. Many who voted for the Bill secretly opposed

^{4/} H. Grattan, ed., Memoirs of the Life and Times of the Rt. Hon. Henry Grattan, i, 206.

it, but, rather than resist the strong popular sentiment for the Bill, supported it, trusting that it would be rejected in England. The Undertakers feared the danger to their control of Parliament, and the Administration was worried by the threat of a revision of the governmental structure in Ireland. Many members of the House disliked the prospect of increased dependence on their constituents, although members of the House of Lords favoured the Bill because more frequent elections would increase substantially the value of the borough-seats that they controlled. It was not easy for any constitutional statesmen to defend a system under which the preceding Parliament had sat for thirty-three years. Finally, in February 1768, as part of the Government's attempts to gain an increase in the Irish military establishment, a Bill limiting parliaments to eight years was returned approved from England.

In October 1767, Lord Townshend, brother of Charles Townshend, had come to Ireland as Viceroy. He came to implement the British Government's decision to make the Lord Lieutenant constantly resident in Ireland in order to break the Government's dependence on the Undertakers.^{5/} The issue was joined on the plan determinedly backed by the King and the British Government to increase the Irish Army from 12,000 to 15,255 (to provide the additional imperial military force which the Stamp Act in America had been designed to supply).

^{5/} Primate Stone and Boyle, now Lord Shannon, died within a few months of each other at the end of 1764.

Townshend was not willing to meet the requests for personal favours and other support that the Undertakers demanded, and the latter, consequently, went into strong opposition. The political strength of the Undertakers was thus added to the Patriot Group in opposition to the Government. The Patriots objected to the Irish army being increased to coerce America, whose struggle they viewed as substantially identical with their own, and to the injustice of throwing upon Ireland the burden of defending the colonies with whom they were forbidden to trade. The first attempt to pass the Bill was narrowly defeated. Parliament was dissolved after the passing of the Octennial Act, and Townshend devoted himself to cultivating other strength, principally through the lavish creation of peerages. However, the Government was immediately challenged in the new Parliament by another peremptory rejection of the customary Money Bill sent to England as the cause for summoning the Parliament. A resolution, copied from one of those which had caused a great constitutional conflict under Lord Sydney in 1692, was added, stating that the Money Bill was rejected 'because it did not take its rise in the House of Commons.' The opposition, having struck their blow, acted with studied moderation. Generous supplies were readily voted for the usual two years, and the Army Augmentation scheme, with a number of modifications, was easily carried.

The Government, however, objected strongly to the

constitutional position asserted by the Commons on the Money Bill. They regarded the privilege of sending over a Money Bill as an essential part of Poynings' Act which established the subordination of the Irish Parliament. Townshend bided his time carefully until the Supply and Augmentation bills had been passed. Then, on 26 December 1769 he went down to the House of Lords, summoned the House of Commons, and delivered a solemn protest against their resolution as an infringement of Poynings' Act, directed that his protest should be recorded in the Journal of each House,^{6/} and immediately prorogued Parliament.

Fourteen agitated months followed before Parliament was allowed to meet again. Townshend was savagely attacked, and the opposition made it their main object to procure his recall. Meanwhile, Townshend directed himself steadily to the purchase of a majority in the House of Commons. All the resources of Government were strained to the utmost to procure votes. The Undertakers were divided and deprived of their positions or weaned away to support of the Government. A sufficient majority was obtained to allow Parliament to re-assemble in February 1771. But two significant developments had taken place. All patronage had been concentrated in the hands of the Government, which

^{6/} Commons forbade their clerk to enter the protest in its Journal. A similar unsuccessful effort was also made in the House of Lords.

was British, not Irish. And the Government had ventured on a policy of buying support to which no logical stopping point could be affixed.

Townshend was recalled in September 1772, and the Earl of Harcourt was appointed to succeed him. The principal event of the first years of Harcourt's Viceroyalty was an abortive attempt to enact a tax on absentee landlords, which was defeated, despite initial Government sympathies, because of the fierce opposition of the Rockingham section of the Whig Opposition, in England, ably abetted by the pen of Edmund Burke. In 1774, John Hely-Hutchinson, formerly Prime Sergeant and an Undertaker who had come over to the Government, was made Provost of Trinity College (a position which Flood had hoped to get). He often spoke knowledgeably on matters before Parliament, and on one or two occasions supported Patriot proposals. Hostilities broke out in America in 1775, and, despite considerable opposition, the Irish House of Commons, in the autumn, approved an address expressing 'abhorrence' of the American rebellion, and later authorized the withdrawal of 4,000 troops from Ireland for use in America. An embargo on the export of provisions from Ireland was also imposed by royal proclamation in February 1776, in order to prevent supplies being shipped to America. This embargo continued for three years and caused considerable economic depression in the country, which was not helped by the mounting cost of Government

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because of the extravagant granting of pensions and positions in order to win votes.^{7/}

At the end of 1775, Henry Grattan entered the House of Commons, having been chosen by Lord Charlemont to occupy his borough seat which had become vacant by reason of the death in the Irish Sea of Charlemont's brother. He was only 29 years old, but his oratory and the departure of Flood from prominent opposition, soon placed Grattan in acknowledged leadership of the Patriot Group. From this time this Group began to take regular shape. Grattan's principal and most consistent supporters were Barry Yelverton (later Lord Avonmore), Dennis Daly, William Brownlow, George Ogle, and later, after resigning as Prime Sergeant, Walter Hussey Burgh. Lord Charlemont, in the House of Lords, was also a close supporter of Grattan. Hercules Langrishe and Gervase Parker Bushe had been prominent in the opposition prior to the outbreak of hostilities in America and the Declaration of Independence, but after that time they often opposed Patriot proposals on the grounds that they were 'inexpedient.'

The principal issue during the Viceroyalty of the Earl of Buckinghamshire was the relaxation of the crippling restrictions imposed by Britain on Irish industry and trade. Depressed economic conditions in Ireland led to an ever more insistent clamour for removal of these restrictions, and there were growing signs of real Irish bitterness over this issue. The British Government at first proposed a sweeping removal

^{7/} Eighteen Irish peers were created on one day, and seven barons and five viscounts were raised a step in the peerage at the same time.

of those restrictions by the British Parliament, but in the face of fierce opposition by the manufacturing towns in Great Britain the concessions were reduced to very minor proportions. Irish discontent was extreme. When the Irish Parliament met in 1779, a motion, proposed by Grattan, that a free trade was absolutely necessary was carried without a division. Shortly thereafter, Grattan carried overwhelmingly a resolution that at this time it would be inexpedient to grant new taxes and the supplies were granted for six months only. These actions were ostentatiously supported outside Parliament by the Volunteers and by non-importation agreements. Faced with such opposition in the midst of a difficult war, the British Government in late 1779 and early 1780 gave way, and removed virtually all of the limitations on Irish industry and commerce. in April 1780 moved his 'Declaration of Irish

The most important feature of the Irish scene during these years was the Volunteer movement. The entry of France into the war in 1778 directly threatened Ireland with invasion. The English fleet was occupied elsewhere and a very reduced number of the normal 12,000 man garrison was still in Ireland, the balance having been withdrawn for service in America and elsewhere. In addition, the Treasury was empty and the Government, therefore, unable to raise or even equip a militia. When a French invasion of Belfast threatened, the Government could only offer half a troop of dismounted horsemen and half a company of invalids. The

Volunteer movement spread rapidly through the country to provide a military force to fill the country's need, and their numbers were said to have soon totalled about 42,000.^{8/}

A movement of this size and influence became a political force to be reckoned with. On February 15, 1782, delegates from 143 corps of Ulster Volunteers met at Dungannon and passed, almost unanimously, a series of forceful resolutions on political matters. In 1781 and 1782 a growing volume of similar resolutions poured from the Volunteer units and other civic meetings throughout the country. Virtually all asserted and took as their starting point, the independence of the Irish Parliament. The Government's basically weak position was also worsened by the disastrous results of the war.

Grattan in April 1780 moved his 'Declaration of Irish Rights,' consisting of a series of resolutions asserting that while Ireland and Britain were indissolubly connected by a common sovereign and ties of interest, only the King, Lords and Commons of Ireland were competent to make laws for Ireland. His speech made a considerable impression, but, coming so soon after the sweeping British commercial concessions, he was unable to carry his motion. Only one or two Government speakers were willing to deny Ireland's legislative independence, but virtually all of the other members, including many of Grattan's usual supporters, opposed the motion as premature or inexpedient. The question was

^{8/} W.E.H. Lecky, A History of Ireland in the 18th Century, ii, 234.

indefinitely adjourned on the grounds that there was already a similar motion in the Journal of the House of Commons, that of 1641.

Two other constitutional controversies quickly followed. Yelverton proposed an amendment to Poynings' Act to take away from the Irish Privy Council its power of altering or suppressing Heads of Bills passed by the Irish Parliament. The Administration had to exert all its powers to defeat the measure. Yelverton raised the question again in 1781, postponing its introduction because of the arrival of the news of the defeat at Yorktown. By then, the Government would have been happy to accept this Bill as a compromise settlement of the constitutional arrangement between Ireland and Great Britain, but events had moved beyond them. The measure was ultimately passed in 1782 after the independence of the Irish Parliament had been conceded by Great Britain.

The other dispute that arose in 1780 was over the question of an Irish Mutiny Bill. The temper of the country had caused the validity of the English Mutiny Act to be disputed in Ireland. To allay this disquietude, Parker Bushe introduced an Irish Mutiny Bill. This posed a difficult problem for the Administration and its supporters. Accepting the Bill was tantamount to acknowledging that the English Act was insufficient, but a refusal would mean that it would be impossible to enforce military discipline in Ireland. The measure passed decisively, but the following year the Bill was returned from England with an alteration making it

perpetual. Despite the protests of the Patriot Group, the change was upheld because the Administration supporters voted for it, since their only concern was that there should be some form of Mutiny Bill.

These Administration victories were dearly bought. They were purchased only by bribery so profligate that it startled even the British Government. The sale of peerages had become the ordinary resource of Government and the cost grew ever greater. To gain his parliamentary victories, Buckingham had to recommend eight commoners for the peerage, thirteen peers for advancement, five appointments to the Privy Council, seventeen persons for civil pensions, and several favours of other kinds.

A few days after the Dungannon meeting of the Ulster Volunteers (on February 22, 1782), Grattan brought the constitutional agitation to a head with a motion declaring the independence of the Irish Legislature. The Administration was able to win postponement of the question until after the Easter recess. During this recess the Government of Lord North in Britain finally fell under the weight of the disastrous American war. Lord Carlisle (who had succeeded Buckingham as Viceroy in December 1780) was summarily recalled, and the Duke of Portland sent in his stead by the new Whig Government in Britain. After a few tentative efforts at ⁶maneuver, the new Government capitulated, and in May 1782 a Bill was passed by the British Parliament repealing the Irish Declaratory Act 1719 (6 of George I), which had asserted the right of the British Parliament to bind Ireland.

The most interesting aspect of Irish imperial philosophy in the 18th Century period surveyed is the general lack of well defined constitutional theory. The Irish made many scattered comments bearing on constitutional problems, but there does not seem to have been a paramount concern, as there was with the Americans, to formulate a system of imperial relationship. There are no Irish equivalents of such treatises on constitutional theory as John Adams' Novanglus,^{1/} Dickinson's Letters from a Farmer in Pennsylvania,^{2/} James Wilson's Considerations on the Nature and Extent of the Legislative Authority of the British Parliament,^{3/} or Jefferson's Summary View of the Rights of British America.^{4/}

It is necessary to search the Irish material to assemble comments on constitutional matters. Many remarks were made almost subconsciously by authors in developing other points, or were stated as unwitting a priori assumptions. This is not to say that the Irish ignored constitutional doctrines. As the following chapters show, extensive evidence of such theory can be culled from the Irish material. But it must be culled.

^{1/} C.F. Adams, ed., The Works of John Adams, iv, pp. 11-177.

^{2/} P.L. Ford, ed., The Writings of John Dickinson, i, pp. 277-406

^{3/} B. Wilson, ed., The Works of the Honourable James Wilson, iii, pp. 199-247.

^{4/} J.P. Boyd, et. al, eds., The Papers of Thomas Jefferson, i, pp. 121-137.

None of the leaders of the Irish patriot party seem to have developed a comprehensive explanation of constitutional theory. In all of the works of Henry Grattan ^{5/} there is only a limited number of instances of more than cursory constitutional arguments. Most of his remarks in Parliament are equally sketchy on this point; only his speech on 'The Rights of Ireland' (27 February 1782) ^{6/} contains an extended consideration of constitutional history and theory. Charlemont's Memoirs ^{7/} and his autobiographical sketch and abundant correspondence ^{8/} are similarly lacking in constitutional speculation. Lucas wrote extensively, but only on a few narrower questions such as limited parliaments. Flood's remarks on constitutional questions were fragmentary; his Memoirs ^{9/} are devoid of such theory. Many of the writings of the secondary members of the Irish patriot group have been lost, but the evidence from periodicals and Parliamentary debates seems to confirm that the expression of constitutional philosophy was generally fragmentary. Only a very few publications contain constitutional doctrine to any extent, and there are not many more which even offer partial views as to the proper constitution of the British Empire. ^{10/}

^{5/} H.Grattan, ed., Memoirs of the Life and Times of the Rt.Hon. Henry Grattan, 5 vols; H.Grattan, ed., Miscellaneous Works of the Rt. Hon. Henry Grattan; H.Grattan, ed., The Speeches of the Rt. Hon. Henry Grattan, 4 vols.

^{6/} D.O. Madden, ed., The Select Speeches of the Rt. Hon. Henry Grattan, pp. 66-81.

^{7/} F. Hardy, Memoirs of the Political and Private Life of James Caulfield, Earl of Charlemont.

^{8/} H.M.C., 12th rep., app., x.

^{9/} W.Flood, ed., Memoirs of the Life and Correspondence of the Rt. Hon. Henry Flood, M.P.

^{10/} These are given and summarized in the last chapter

Irish references to the constitutional theories developed and ceaselessly proclaimed by the American patriot writers were scarce. It is abundantly clear that the Americans' views were known to the Irish. American pamphlets were promptly re-published in London and available in Ireland,^{11/} and some were reprinted in Dublin itself.^{12/} The principal newspaper sympathetic to the Irish patriot cause, the Freeman's Journal,^{13/} reprinted a number of the leading American statements of constitutional theory, e.g., Dickinson's Letters from a Farmer^{14/}, the examination of Benjamin Franklin by the British House of Commons,^{15/} the Continental Congress's Address to the People of Great Britain^{16/} and the Declaration of Independence itself.^{17/} This newspaper also reprinted

^{11/} Examples of such reprints are found in the Halliday Collection of pamphlets in the Royal Irish Academy. For instance, Volume 396 of the Collection, which relates to the year 1776, consists entirely of American pamphlets reprinted in London, many by the famous John Almon.

^{12/} For instance: A Letter from the Town of Boston to C. Lucas, Esq., inclosing a Short Narrative of the Massacre Perpetrated there in the Evening of the 5th day of March 1770, reprinted in Dublin in 1771; Votes and Proceedings of the Freeholders and other Inhabitants of the Town of Boston, reprinted in Dublin in 1773; Address to the people of Great Britain from the Delegates appointed by the several English Colonies etc., reprinted in Dublin in 1775; Plain Truth addressed to the inhabitants of America, reprinted in Dublin in 1776.

^{13/} Freeman's Journal, v, 43, 30 January 1768, and following.

^{14/} FJ, iii, 32, 26 December 1765, and following.

^{15/} FJ, iv, 91, 18 July 1767.

^{16/} FJ, xii, 53, 27 December 1774, and following. Walker's Hibernian Magazine, v, January 1775.

^{17/} FJ, xiii, 156, 22 August 1776. See also Appendix A.

correspondence from America^{18/} and the proceedings of several provincial legislatures and other local groups.^{19/} American news was given extensive coverage throughout the years of the constitutional dispute and even on through the war years.^{20/} Accounts of the British Parliamentary debates and other British proposals on American matters were also regularly published in Dublin.^{21/}

Irish leaders were in contact with the Americans. Hercules Langrishe and Gervase Parker Bushe (Grattan's brother-in-law) dined with Benjamin Franklin in London in 1769,^{22/} and both wrote pamphlets on the Anglo-American dispute.^{23/} There were reportedly many other Irish patriot callers on Franklin whose names are now unknown.^{24/} Franklin himself visited Dublin in September 1771 and met Lucas, Charlemont, Pery and Dennis Daly, and probably others of the

^{18/} See Appendix A.

^{19/} See Appendix A.

^{20/} See Appendix A.

^{21/} See Appendix A.

^{22/} J.B. Nolan, Benjamin Franklin in Scotland and Ireland, 132.

^{23/} H. Langrishe, Considerations on the Dependencies of Great Britain (London 1769); G. Parker Bushe, The Case of Great Britain and America (Third Edition - Dublin 1769). This pamphlet does not give the author's name. But Bushe wrote to Grattan on 18 January 1769: 'a second edition of The Case of Great Britain and America is coming out. I have made a good many additions to it'. Grattan, Memoirs, 1, 136.

^{24/} Nolan, Franklin, 132. Richard Jackson, Franklin's associate in the Agencyship of the Province of Pennsylvania, also had Irish connections. Nolan also states that Poor Richard's Almanac was widely read in Dublin, *ibid*, 141.

Irish patriot group. He commented that he met the principal patriots and 'found them disposed to be friends of America, in which I endeavoured to confirm them'.^{25/} Franklin was apparently also the author of the address To the Good People of Ireland in 1778.^{26/} In addition to his friendship with Franklin, Lucas was in direct touch with America. The town of Boston addressed a letter to him after the celebrated 'massacre' there in 1770,^{27/} and he replied.^{28/} During Franklin's visit to Dublin, Lucas offered as his toast 'Mr. Bowdoin of Boston'.^{29/} Rossiter reports that the words of the Irish patriot Dr. Charles Lucas appeared repeatedly in colonial pamphlets and letters.^{30/} The Presbyterians of the North had many personal and friendly contacts with recent emigrants to the Colonies.^{31/}

^{25/} J. Sparks, ed., The Works of Benjamin Franklin, vii, 557. Earlier, he commented that 'our part is warmly taken by Irish in general.' Ibid, vii, 470.

^{26/} P.L. Ford, ed., To the Good People of Ireland - B. Franklin. This address was reprinted in the Hibernian Journal, viii, 4 November 1778.

^{27/} Letter of the Town of Boston to C. Lucas, Esq.

^{28/} Reprinted from Boston Gazette in FJ, ix, 9 and 10, 19 and 21 September 1771.

^{29/} Nolan, Franklin, 148.

^{30/} C. Rossiter, Seedtime of the Republic, 360. He cites without comment: Boston Evening Post, 3 Feb. 1772; (Salem) Essex Gazette, 4 Feb. 1772; (Annapolis) Maryland Gazette, 21 Feb. 1772; (Charleston) South Carolina Gazette and Country Journal, 10 March 1772; New York Packet, 4 Jan. 1776. All but the latter were probably occasioned by the arrival of the news of Lucas' death in November 1771.

^{31/} Exchange of comment must have taken place, but finding concrete examples has proved frustrating. See my comment on sources.

Irish patriots had personal American connections. The eccentric pamphleteer, Francis Dobbs, was a nephew of Arthur Dobbs, a former Governor of North Carolina; Arthur Browne, a Government critic in the Irish Parliament, was the son of a rector of Rhode Island and received his early education at Harvard; William Knox, another pamphleteer, spent several years in Savannah; Alexander Montgomery, a representative from County Donegal, was the brother of the American General Montgomery killed at the attack on Quebec.^{32/} Even Government members and supporters had American connections. Townshend, Lord Lieutenant during almost the entire American controversy, had gone out to America in 1759, served as a Brigadier General under Wolfe at Quebec, had been quartered for a time in New Jersey, and generally had an excellent knowledge of America.^{33/} Charles O'Hara and other Irish correspondents kept abreast of many American views through letters from Burke.^{34/} Among the American supporters in the British Parliament was Colonel Isaac Barre, who had been born in Dublin of Huguenot parents, had served in America, and maintained his American contacts and acted as an unofficial representative of the Colonies.^{35/}

^{32/} R.B. McDowell, Irish Public Opinion, 1750-1800, 40.

^{33/} Nolan, Franklin, 146. L.B. Namier, England in the Age of the American Revolution, 298.

^{34/} R.J.S. Hoffman, ed., Edmund Burke, New York Agent with his Letters to the New York Assembly and intimate correspondence with Charles O'Hara, 1761-1776.

^{35/} Namier, England, 302.

Irishmen followed events in America closely and appreciated that the outcome in that country would profoundly affect their struggle for greater independence. Most of the Irish comments on America dealt with this latter thought. One writer warned the Irish that 'if their neighbour's house was on fire ... it may reach their own, especially if a strong North wind blows it'.^{36/} Another proclaimed that if 'the arbitrary measures against America' succeeded, Ireland 'will have the doleful honour of being the last sacrifice to the idol of despotism'.^{37/} Even O'Hara, an Administration supporter, told Burke (after the news of Lexington and Concord) that 'here we sympathize more or less with the Americans, we are in water colors what they are in fresco'.^{38/} The Presbyterians of Ulster 'condemned this war as unjust, cruel and detestable ... the most wanton, unprovoked despotism'.^{39/} This feeling was particularly strong in the North generally.^{40/}

^{36/} Letter from 'A Friend to Liberty', FJ, xii, 80, 28 February 1775.

^{37/} FJ, xii, 75, 16 February 1775.

^{38/} Hoffman, Burke, 585. As early as December 1765, Burke had written to O'Hara that 'the liberties (or what shadows of liberty there are) of Ireland have been saved in America'.

^{39/} Wm. Campbell, Sketches of the History of Presbyterianism in Ireland, pp. 235-6. An unpublished manuscript at the Presbyterian Historical Society, Belfast. Hoffman, Burke, 600.

^{40/} Unpublished portions of Letters No. 3 (3 April 1776?) and 13 (23 November 1777) in typescript collection of Drennan Letters at the Public Record Office of Northern Ireland. H. Joy, ed., Historical Collections relative to the Town of Belfast etc., 110, 117. Letter addressed to the Electors of the County of Antrim by a Freeholder, (Belfast 1776), xviii.

Lucas, Charlemont, Dobbs and others expressed the same idea.^{41/} There was a spate of comments at the outbreak of hostilities that 'resistance is not rebellion ... to resist illegal decrees and measures is the indispensable duty of British subjects ... His Majesty sits upon the throne by its having been adopted and resolutely maintained'.^{42/}

It is all the more interesting, therefore, that the Irish, despite this close contact with American thought, not only did not emphasize constitutional theory, but scarcely utilized the American material. The principal question that the Irish saw in the American dispute as late as 1780

^{41/} C. Lucas, Seasonable Advice to the Electors at the Ensuing General Election (London and Dublin, 1768), 13. H.M.C., 12th rep., app, x, 32. F. Dobbs, A History of Ireland from the 12th of October 1779 to the 15th September 1782, etc. (Dublin 1782), pp. 7-8, 8-9. Also: The Letters of Gautimozin etc. (Dublin 1779), 19, 22, 53; Letter from 'Dymoke', FJ, xii, 55, 31 Dec. 1774; Letter from 'Humphrey Search to the People', FJ, xii, 56, 3 Jan. 1775; FJ, xii, 100, 15 April 1775; Letter 'To the People of Ireland' from Valerius, FJ, xii, 127, 17 June 1775; FJ, xii, 156, 24 Aug. 1775; Third letter from 'Amicus Americanus', FJ, xiii, 140, 16 July 1776; Letter 'On the Continental Congress' declaration of Independency' from 'Pacificus', FJ, xiv, 3, 29 Aug. 1776; Letter from 'Brutus' FJ, xiv, 20, 8 Oct. 1776; The First Lines of Ireland's Interest in the Year One Thousand Seven Hundred and Eighty (Dublin 1779), 6; A Candid Display of the Reciprocal Conduct of Great Britain and her Colonies etc. (Dublin 1780), 30; A letter to the Rt. Hon. The Earl of Hillsborough, etc. (Dublin 1780), 8.

^{42/} Letter from 'A Friend to Trade', FJ, xiii, 19 Sept. 1775. Also: Yelverton in the Irish House of Commons debate on sending troops to America, FJ, xiii, 41, 28 Nov. 1775; Dissident Resolution in the Irish House of Lords, FJ, xiii, 42, 30 Nov. 1775; Letter from 'Pacificus', FJ, xiv, 3, 29 Aug. 1776; Letter from 'Brutus', FJ, xiv, 20, 8 Oct. 1776.

^{46/} Hidden Speeches, 87.

was that of 'no taxation without representation',^{43/} although the leading American opinion had left that doctrine behind several years before the outbreak of hostilities. In the debate on sending troops to America, Yelverton still rehearsed the arguments against 'virtual representation', which had long since been discredited on the other side of the Atlantic.^{44/}

There are only two indirect references to American doctrines in Grattan's works. While a law student in London, he heard a speech by George Grenville asserting the British Parliament's power to tax America and Ireland, which 'impressed on my mind a horror of this doctrine; and I believe it was owing to this speech ... that I became afterwards so very active in my opposition to the principles of the British Government in Ireland!'^{45/}

In his 'Declaration of Irish Rights' Grattan recited the constitutional concessions which the Peace Commissioners had presented to the Americans and then asked rhetorically 'has England offered this to the resistance of America, and will she refuse it to the loyalty of Ireland?'^{46/}

There is no discussion of American theory in any of the extensive Charlemont manuscripts, no letters to or from anyone in America, and in fact, scarcely any mention of America at

^{43/} Letter from 'Valerius', FJ, xii, 127, 17 June 1775; A Letter to The Rt. Hon. The Earl of Hillsborough, 8. See also Chapter 7 below.

^{44/} FJ, xiii, 41, 28 November 1775.

^{45/} Grattan, Memoirs, i, 136.

^{46/} Madden, Speeches, 57.

all.^{47/} Despite his contacts with Americans, Lucas never discusses American constitutional doctrines. His letter to Boston contains no theory and is largely devoted to joining the Americans in berating English administration.^{48/} It is significant that the American items reprinted in the Freeman's Journal were almost all published without discussion of their theoretic implications, and, indeed, without any comment of any kind. The contrast between the American and Irish material was illustrated by the fact that the first items in the Baratariana collection, which contained so little constitutional theory,^{49/} began to appear in the Freeman's Journal^{50/} - sometimes in the same issues - concurrently with that paper's reprinting of Dickinson's Letters from a Farmer, at that time the American doctrinal 'bible'.

This evidence suggests that the analogy between Ireland and America at this time as closely comparable problems in imperial constitutional theory was not as direct as the

^{47/} See footnote 8.

^{48/} FJ, 9 and 10, 19 and 21 September 1771.

^{49/} Baratariana, A Select Collection of Fugitive Political Pieces published during the Administration of Lord Townshend in Ireland (Second edition - Dublin 1773). The first letters in January 1768 were addressed 'To a Friend in Pennsylvania'. However, I have found no indication that they were actually sent to America. They contained only scattered references to 'oppressions' in America.

^{50/} FJ, v, 43 and 44, 30 January and 2 February 1768 and following.

^{51/} See V. D. Harlow, The Evolution of the American Empire, 1763-1796, p. 612.

historical developments would tend to indicate. The similarity of the relationships of the two countries to the British Parliament is obvious enough, but may, perhaps, have exerted an undue fascination for historians. Questions of constitutional theory are primarily formed in the minds of men. Despite the parallel historical situations, Irishmen did not view their problem, and therefore did not frame their justifications, as pre-eminently a matter of imperial constitutional theory, in contrast to what often seems a 'mass fixation' on this topic on the part of the American patriots. It might not be fair to assert that constitutional theory occupied a completely subsidiary place with Irishmen, but it is safe to say that it did not overshadow other considerations as it did in American thought. The literature construing the struggle as a question of imperial constitutional theory must be assessed as significantly limited in Ireland as compared with America.

The immediate cause of this discrepancy was that the Irish struggle was principally one for control of their own Parliament,^{51/} and, as a concomitant of this endeavour, a reaction against the supremacy of the British Parliament. The Americans controlled their legislatures; the Irish did not. The Irish patriot group had to struggle ceaselessly against the Government's majorities, extravagantly purchased by places and pensions. It often seems startling that the

^{51/} See V.T. Harlow, The Founding of the Second British Empire, 1763-1793, 1, 511.

patriot group ever managed to win a vote. The predominant element in the literature of the Irish patriots is bitter attack on British government in Ireland, and its bribed supporters in the Irish Parliament. Allowing for the free use of slanderous invective common in that age, the writings, and even the Parliamentary speeches, of the Irish patriots are surprisingly ferocious and insulting. Baratariana, the most extensive collection of Irish patriot writings, is primarily devoted to a low satire on Lord Townshend, then Lord Lieutenant, and a torrent of scurrilous attacks on Townshend fills its pages. Lecky curtly describes Baratariana as 'unmeasured invective.'^{52/} While considerable strong language was used by the Americans in the day to day struggle, much of their literature was deliberately pitched on an intellectual plane. Rash personal attack in Ireland was hardly surprising, considering the cynicism and corruption wielded by the Government to forestall the patriot group for years at virtually every turn.

However, the narrower Irish struggle for parliamentary control was itself also a reflection of the fundamental divergence between the situations in the empire of Ireland and the Colonies. America was becoming a very different country and people from Great Britain and its destiny was veering from that of the mother country. The Anglo-Irish, both patriot and administration supporters, felt and displayed

^{52/} W.E.H. Lecky, A History of Ireland in the Eighteenth Century, ii, 64.

a unity of situation and social attitude with Great Britain that was more fundamental than the split on political issues. There was more an attitude of wishing to be free of direct restraints in order to develop in Ireland their British heritage their own way, but under general British imperial superintendence and tutelage, rather than a fragmentation of the empire through distinct and rigid separation of interests.

The American Colonies and Great Britain were moving in opposite directions, each following well-nigh irresistible historical tendencies, the former toward intensive self-government and the latter toward empire. The Colonies were separated from Britain by thousands of miles of sea, and the new environment kept alive features of national character which had been superseded in the mother country, or else promoted the development of new qualities. Men did not push their arguments to their logical conclusion, but there were profound differences between the British and colonial points of view. Britain was an old, well settled, organized land, with deep-rooted feudal and aristocratic traditions; the colonies were new and sparsely settled, with the strong individualist tendencies and rudimentary feelings of duty and obligation of a still loosely knit society. The British lived in a small island which was inadequate for their needs and impelled them to empire; the colonists inhabited the fringe of a great continent of vast resources, which tended to create a provincial rather than an imperial attitude.

Not only were the characters of the two peoples at variance, but the institutions and theories of government were at different stages of development. Representation meant something different in America; it was not set up in direct imitation of the English House of Commons, but rather evolved as a convenient method of solving a practical problem, the organizing of a government of free-men in the wilderness.^{53/}

The representative system in Britain had become scarcely more than a method of filling the benches of the House of Commons, and bribery in elections and peculations and fraud in administration were commonplace. The colonists felt that they had been free in fact and ought therefore to be free in law. To an Englishman, an unconstitutional law was merely 'unjust' or 'impolitic', while to an American it was a nullity. In wealth, resources, production, ingenuity and energy the Americans were fast approaching the end of colonial status.

What the Americans were driving for was a recognition, by the mother country, of the new self-confident American national personality. The child had grown up and become a man. Psychologically, the American Revolution was a war to force the mother country to admit this basic fact.^{54/}

In contrast, the Irish, although cast by circumstances in political opposition to Britain, were fundamentally far more akin to the British than to the Americans. They were

^{53/} This point is discussed in more detail in Chapter 7 below.

^{54/} M. Savelle, Seeds of Liberty, the Genesis of the American Mind, 580. See also p. XI. American writers continually sounded the note of destiny. See the quotation from Franklin on page , Chap. 3 below.

after all, Anglo-Irish. There was a sharp political cleavage between the Patriot Group and the supporters of the British administration, but history, propinquity, and the influences of a minority position had created for the Ascendancy as a group, if not a community of interest, a considerable, subtle, often unconscious, extension of basic British attitudes.

Passing comments are often indicative of these feelings. Speaking of America (in fact, arguing on its behalf), a Belfast pamphleteer in 1776 mentions 'our colonies' growing and flourishing under 'our wing'.^{55/} Bushe in his pamphlet on Great Britain and America unconsciously identifies himself with Britain when he speaks of what 'we' should do about the Americans and what 'we' should do to retain Britain's position in the Empire.^{56/} An earlier writer (1767) includes America when he speaks of 'the most insignificant appendages of Great Britain.'^{57/} In pamphlet and Parliament there were members of the Ascendancy who complained that 'we have been strangely tickled by several of our Liberty Spirits of late with the false illusion of comparing us with the Americans;'^{58/} who felt that 'the demands of America bear no sort of

^{55/} Letter Addressed to the Electors of the County of Antrim by a Freeholder (Belfast 1776), p. xiv. My italics. A Letter from Daniel Magennis to Charlemont, Dublin, 5 Feb. 1782, also refers to 'our colonies'. H.M.C., rep. 12, app., x.

^{56/} Bushe, Case of Great Britain and America, 39.

^{57/} A Letter to the Rt. Hon. J... P..... Speaker of the House of Commons in Ireland. (London and Dublin 1767), 19. The reference is to John Ponsonby.

^{58/} Some Hints for the better promoting the due Execution of the Laws in this Kingdom, (Dublin 1766), 14.

connection with Ireland, this kingdom has ever been directly contrary;'^{59/} or whose pride was hurt: 'Ireland was never peopled by transported convicts ... comparisons are odious!'.^{60/}

The Irish viewed the imperial dispute as one over the rights of Englishmen, a question more of internal adjustment in the Empire's legal system rather than a radical re-casting of the entire concept and aim of Empire. The people of Belfast, in September, 1775 (after Lexington and Concord), called for a 'speedy and happy restoration of that old constitutional system, under which Great Britain and her Colonies [were] united in affection as in interest.'^{61/} As mentioned, the American dispute was viewed largely as a matter of the proper arrangements for taxation and representation. This is borne out by the fact that Irish comment on the constitutional aspects of America's claims dropped off sharply after the full implications of the Declaration of Independence were appreciated. The Declaration itself was relegated to the second page of the Freeman's Journal, and it was reprinted entirely without comment.^{62/}

^{59/} Speech of Rt. Hon. Thomas Connolly, Debates of the House of Commons of Ireland on a Motion whether the King's most excellent majesty, and the Lords and Commons of Ireland are the only Power competent to bind or enact laws in this Kingdom, (Dublin 1780), 13.

^{60/} An Answer to a Pamphlet entitled Observations on the Mutiny Bill, (Dublin 1781), 47.

^{61/} Joy, Historical Collections, 120.

^{62/} FJ, xiii, 156, 22 August 1776.

^{67/} Langrish, Considerations, 79.

This pro-Patriot newspaper also had printed shortly before a lengthy letter attacking Paine's Common Sense.^{63/} There was talk of 'ungrateful, rebellious America'.^{64/} The Irish House of Commons voted to send troops to America. Lecky comments that 'like very many politicians of his time, Flood seems to have regarded the subjugation of America as of vital importance to the Empire'.^{65/} In fact, the Irish were quick to realize and complain that Britain offered through the Peace Commissioners to make extensive concessions to the resistance of America which she refused to the loyalty of Ireland.^{66/}

Entry into America's revolutionary struggle of the French, the long abhorred and feared enemy, and the befriender of the Catholic Stuart interest, changed the complexion of the problem in many Anglo-Irish eyes. As far back as 1769, Langrishe had defined the objective of the French and Indian War as a vital struggle of the British Empire against the power of France, not 'merely a piece of courtesy or kindness to the descendants of Britons'.^{67/} After France entered the

63/ FJ, xiii, 124, 129, 131, dated 8, 20 and 25 June 1776.

64/ Thoughts on the Present Alarming Crisis of Affairs humbly submitted to the serious Consideration of the people of Ireland, (Dublin 1779), 9.

65/ W.E.H. Lecky, Leaders of Public Opinion in Ireland, 1, 53.

66/ Madden, Speeches, 57; R. Houlton, A Selection of Political Letters which appeared during the Administrations of the Earls of Buckinghamshire and Carlisle, under the signatures of Junius Brutus, Hampden, The Constitutional Watchman and Lucius Hibernicus, (Dublin 1782), pp. 44-45.

67/ Langrishe, Considerations, 79.

war in 1778, Dennis Daly, Grattan's close friend and supporter, introduced in the Irish House of Commons an address to the King which passed unanimously, 'to assure him of our unshaken loyalty' and 'that the present situation of affairs, when his natural enemy was joined against him, call upon them to assure his Majesty he may rely on them giving every assistance that they were able'.^{68/}

On the arrival of the news of Cornwallis' surrender at Yorktown, Yelverton offered a motion expressing 'our most earnest wishes for the British Empire',^{69/} and, in the same debate, Flood declared that 'a liberal policy might make this island of more advantage, and more productive to the British empire than the great continent of America had ever been'.^{70/}

A pamphleteer of 1780 called on Heaven to forbid that 'ever loyal, ever ready' Ireland should take advantage of Britain's 'trying circumstances' and disdainfully labelled talk of compelling concessions from the fears and distresses of England 'the precise language of the Americans'.^{71/}

Another writer averred that Ireland was 'the best ally that Great Britain has upon the face of the earth against their common enemies...; distant colonies...are

^{68/} FJ, xv, 92, 24 March 1778. Grattan supported this motion.

^{69/} The Parliamentary Register, i, 124.

^{70/} Ibid, 130.

^{71/} A Candid Display, 37, 43.

^{77/} An Answer to a Pamphlet, 87. Capitals in the original.

not to be depended upon'.^{72/} Commenting on the offers of the American Peace Commissioners, Grattan contrasted the refusal to grant to 'the loyal and affectionate sister of England ... the indulgence held out to the enemy of England - to the ally of France.'^{73/} A Volunteer resolution in 1782 called on America to 'throw off all unnatural connections.'^{74/}

The weight of the Irish arguments - of even the leading patriots - is on the identity of constitutional interests with Great Britain, rather than on any keenly felt disparity of vital concerns. The Irish thought it inconceivable that the two peoples should become alien to each other: 'any idea of separation from the imperial crown of Great Britain is absurd, extravagant and ruinous.'^{75/} Lucas compared the countries to two hands of one body, which should not contend with each other merely because one was stronger.^{76/} It was held to be an 'undoubted truth that THE INTERESTS OF BOTH KINGDOMS ARE INVARIABLY THE SAME',^{77/} and Ireland's wish was

groundless jealousies' nor 'to provoke and embarrass England'

^{72/} An Answer to a Pamphlet, 53.

^{73/} Grattan, Speeches, 1, 88.

^{74/} 'Address of the inhabitants and volunteers in the neighbourhood of Mulf in the County of Londonderry' (29 May 1782), quoted in Grattan, Misc. Works, 218.

^{75/} C.H. Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries, etc., of Ireland, 159. The desire for a close connection between Ireland and Great Britain is discussed further in Chapter 3 below.

^{76/} Quoted in Grattan, Memoirs, 1, 90.

^{77/} An Answer to a Pamphlet, 57. Capitals in the original.

for 'a compleat and indissolute [sic] union of affection, interest and strength with her sister island.'^{78/} One pamphleteer pronounced his 'allegiance to the crown of England [such] that however I may abjure the omnipotence of the B....sh parliament, I would not choose to meet the question of disunion, even on the ground of speculation'.^{79/} On several occasions, Grattan was unable to carry with him many of the secondary members of the Patriot Group in the House of Commons, such as Langrishe, Bushe, and even Daly. They felt that 'wanton challenges' to England would be 'ungrateful' and 'only create discontent'.^{80/} Grattan himself spoke of 'both countries one arm and one soul', and he said that Britain's natural station was the head of mankind.^{81/} It is also noteworthy that Flood served in the Administration as Vice Treasurer during the whole period of the American War of Independence. Administration supporters, of course, called for taking care not to 'breed groundless jealousies' nor 'to provoke and embarrass England'.^{82/}

^{78/} A Letter to Edmund Burke, Esq., by birth an Irishman, by Adoption an Englishman, containing some reflections on Patriotism, Party Spirit and the Union of Free Nations, with Observations upon the means on which Ireland relies for obtaining Political Independence, (Dublin 1780), 36.

^{79/} First Lines of Ireland's Interests, 57.

^{80/} Grattan, Speeches, 1, 53.

^{81/} Madden, Speeches, 62.

^{82/} Debates ... on a Motion, 2, 3, 14, 17, 18.

The Irish Parliament [was] a strong imperial influence in Ireland. Loyalty to the English connection cannot be denied to the parliament of Ireland. 83/

Grattan and his colleagues, unlike the New World Americans, strove to reconcile national self-determination with continuing membership of the Empire. 84/

As something of an epilogue, it is interesting to note that several Irish writers, on the occasion of the Declaration of Independence, saw the divergence between conditions in America and Great Britain, and the likelihood of separating paths of national development:

America is now likely to become an Empire within herself. Her vast Continent commands all the other quarters of the globe. The known and unknown world will be hers. Riches and honours crowd into her harbours. 85/

The distant situation and extended territories of the Colonies, their increasing strength, population and love of liberty, make it highly probable, that even without a war, they would in some future period aim at independence. 86/

Ireland. The large Catholic Irish majority did not come within its preview, and there was no concept of a national entity with political, economic and sectional attributes. It was a development far removed from the nationalism that emerged in the 19th century. There was rather a sense of

83/ T.J. Kiernan, History of the Financial Administration of Ireland to 1817, 334.

84/ Harlow, Second British Empire, i, 527.

85/ Letter from 'Juba', FJ, xiv, 19, 5 October 1776.

86/ Letter from 'John Hampden', FJ, xiv, 29, 29 October 1776.

from principle, but that at best some money was made to flow from them. ✓

✓ Charlemont in his manuscript concludes, ✓

CHAPTER III

THE CONCEPT OF IRELAND AS A SEPARATE NATION

The constitutional argument most frequently advanced by the Irish patriots was that Ireland was a separate nation and people, and therefore, should not be subservient to Great Britain. This contention was also part of the other theories propounded but it was a refrain so often repeated that it warrants being described as a separate constitutional argument. The Anglo-Irish wished to be free to develop for Irish benefit (which they defined as for their benefit) what they felt to be their admirable British heritage. They gave to the concept of 'nationhood' the limited meaning which was customary in that era. The Anglo-Irish conceived of it as encompassing only their own ascendant position in Ireland. The large Catholic Irish majority did not come within its preview, and there was no concept of a national entity with political, economic and emotional attributes. It was a development far removed from the 'nationalism' that emerged in the 19th century. There was rather a sense of the separation of the best interests of the Anglo-Irish from the narrow interests of Great Britain in Ireland.

They were taught to know that Ireland had, or ought to have, a constitution, and to perceive that there was something more in the character of a Whig than implicit loyalty to King George, a detestation of the Pretender, and a fervent zeal for the Hanover succession - excellent qualities when they flow from principle, but timid at best when every principle is made to flow from them. 1/

self reliance

1/ Charlemont in his manuscript memoirs, HMC rep 12, app, x, 7.

Throughout the Irish independence literature this contention is continually asserted, virtually without argument or attempted justification. Lecky notes that 'a strong spirit of nationality had arisen,'^{2/} and McDowell points out that 'the most noticeable feature in Irish opinion about this time was the increased feeling of national self-reliance.'^{3/}

The Patriot leaders expressed the thought repeatedly. Charlemont's primary standard of judgment was service to 'my country' - a phrase which recurs continually in his writings. He wrote with obvious pride, 'I am an Irishman. I pride myself in the appellation',^{4/} or again, 'the love of Ireland has ever been the ruling passion of my soul.'^{5/} In Grattan's speech on the 'Triumph of Irish Independence' (16 April 1782), he repeatedly characterizes Ireland as 'a free people'.^{6/} In his earlier 'Declaration of Irish Rights' he appeals to Ireland as 'a great, a growing and a proud nation'.^{7/} Langrishe referred to 'Ireland, an ancient

2/ W.E.H. Lecky, Leaders of Public Opinion in Ireland, i, 216.

3/ R.B. McDowell, Irish Public Opinion, 1750-1800, 62.

4/ H.M.C. rep 12, app, x, 58. See also *ibid*, 8, 14, 15, 27 and Francis Hardy, Memoirs of the Political and Private Life of James Caulfield, Earl of Charlemont, 116.

5/ Reply of 24 Sept. 1782 to an Address by Ballincollig Review, County and City of Cork, quoted in H. Grattan, ed., Memoirs of the Life and Times of the Rt. Hon. Henry Grattan, ii, 341.

6/ Text in D.O. Madden, ed., The Select Speeches of the Rt. Hon. Henry Grattan, pp. 82-89.

7/ *Ibid*, 58.

kingdom, great in its own growth,^{8/} and Yelverton was sure that 'Nature...has given [the Irish people] a happy climate, a fertile soil, and ports that control the commerce of the world.'^{9/} Edmund Burke, writing to Pery, Speaker of the Irish House of Commons, comments: 'You are now beginning to have a country; and I trust you will complete the design.'^{10/}

During this period, Ireland's claim to separate treatment was formally asserted by a protest in the Irish House of Lords as early as 1765,^{11/} and this contention re-echoes through the Volunteer resolutions of 1782. The Corps of Independent Dublin Volunteers and the Meeting of the Glanmire Union resolved, in identical language, that 'the people of Ireland are a free people, with a parliament of their own, to whose authority alone they are subject.'^{12/} Edgeworthstown Battalion (Co. Longford) began a series of resolutions with the unanimous declaration that Ireland is an independent kingdom.^{13/} The Union Regiment included both thoughts in its resolutions: 'Resolved, That His

^{8/} Quoted in McDowell, Irish Public Opinion, 48.

^{9/} Speaking in House of Commons, 2 Nov. 1779, Freeman's Journal, xvii, 31, 4 Nov. 1779.

^{10/} Burke to Pery, 12 August 1778, H.M.C., rep 8, app., 1, 199b.

^{11/} 'Although the Crowns of England and Ireland be united, yet Ireland is a distinct Kingdom'. (November 1765), A Collection of the Protests of the Lords of Ireland from 1634-1771, (Dublin, 1772), 89.

^{12/} C.H. Wilson, ed., A compleat Collection of the Resolutions of the Volunteers, Grand Juries Etc., of Ireland, 31, 121. See also, earlier: Freeholders of County Dublin, (7 March 1780), Hibernian Journal, 33, 15 March 1780.

^{13/} Grattan, Memoirs, ii, 258.

Majesty's kingdom of Ireland is a distinct kingdom, giving a distinct title to an Imperial crown'.^{14/}

The swelling volume of this theme evinced the development of a distinct self-consciousness on the part of the Anglo-Irish Ascendancy.^{15/} Although still a small minority of the population,^{16/} the Ascendancy was the vanguard if no longer the exclusive element in the Irish nation. A subtle extension of basic British attitudes still pervaded the Anglo-Irish community, but a century had relaxed the necessity for immediate dependence upon Great Britain for security of property and religion. There was a dualism in Anglo-Irish attitudes. Growing increasingly aware of their 'distinctiveness' as Irishmen, the Anglo-Irish sought to become masters of their destiny.^{17/} Although the Patriot Group in the Ascendancy naturally tended to emphasize this viewpoint more than the other Anglo-Irish, the concept of Ireland's separate status was also supported by pro-Administration supporters. Even Attorney General Scott,

14/ Wilson, Resolutions of the Volunteers, 184.

15/ Noted also by McDowell, Irish Public Opinion, 39.

16/ Less than 350,000 out of a total population of some 2,930,000 in 1777. Computed from figures cited (pages 5 and 15) in Miss T.M. O'Connor, The More Immediate Effects of the American Revolution on Ireland, 1775-1785. Unpublished Master's thesis presented to the Queen's University of Belfast, February 1938. However, this population figure is a considerable underestimation. The factors causing this error would indicate that the underestimation was primarily in the non-Ascendancy population. Therefore, the proportion of Anglo-Irish in the population was even lower than these figures indicate. See K.H. O'Connell, The Population of Ireland 1750-1845.

17/ V.T. Harlow, The Founding of the Second British Empire, 1763-1793, i, 509: 'There was a genuine nationalism, and yet they /Anglo-Irish/ were as dependent upon the power of Britain for their survival, as a distinctive community, as the planter minority in the West Indies.'

faithful spokesman of the Administration, speaking against Grattan's motion for the independence of the Irish Parliament, mentioned his Irish viewpoint and situation: 'as an Irishman, and a friend to Great Britain, I must say, that if Great Britain shall attempt to make any new laws they will not be obeyed. I am the depository of the laws of Ireland, not of England.'^{18/}

The concept of Ireland as a nation separate from Great Britain grows in the Irish writings from about 1750 on. It was implicit, even when not specifically stated, in the other constitutional arguments, particularly that based on historical precedents, which absorbed much of the attention of the Irish Patriots.^{19/} The growth of this idea may have been spurred by the substitution of a resident Lord Lieutenant for the Irish 'Undertakers', thus transferring discontent and hostility from the latter to the British. 'Grievances were focussed on the King's representative at a time when a movement for colonial self-determination was steadily growing'.^{20/} The fact, too, that Great Britain persisted in treating Ireland as an entirely separate unit, particularly under the commercial laws, forced a feeling of Irish identity upon the Ascendancy. In addition, Ireland was always

^{18/} The Parliamentary Register, i, 280.

^{19/} See Chapter V.

^{20/} J.L. McCracken, 'The Irish Viceroyalty, 1760-73', in Cronne, Moody, Quinn, eds., Essays in British and Irish History, pp. 152-168.

acknowledged to be a separate kingdom, with a long history of parliaments of its own. The Anglo-Irish identified themselves with this heritage, and, in fact, tended to dwell on it in their constitutional arguments based on historical precedents. Great Britain's inability to afford Ireland protection against the threat of a French invasion and the enthusiastic rise of the Volunteers reinforced the sentiment of nationhood with patriotic ardour and pride.

Ireland's destiny, however, was not felt to be distinct from that of Great Britain. The Anglo-Irish, as mentioned previously, demonstrated a considerable affinity for English attitudes. They felt it inconceivable that the two people could become alien to each other. Consequently, the necessity for a close connection with Britain is repeatedly affirmed throughout the Irish constitutional literature.

Grattan was probably the most insistent on this point, asserting, for instance, that he was 'desirous above all things, next to the liberty of this country, not to accustom the Irish mind to an alien and suspicious habit with regard to Great Britain'.^{21/} Referring to this quotation, Lecky comments: 'In this, as in every other period of his career, Grattan was anxious to show in the most unequivocal manner the sympathy of Ireland with England, and the compatibility of an ardent love of independence with a devoted attachment

^{21/} Letter from Grattan to Denis Daly, 22 April 1782, in Grattan Memoirs, 88, 251. H. Grattan, ed., Miscellaneous Works of Rt. Hon. Henry Grattan, 38.

to the connection.'^{22/} Charlemont echoed Grattan: 'I do most ardently [wish] a perpetual and inseparable connection between the two nations.'^{23/} In earlier years Dr. Lucas had expressed the same thought: 'The firm and intimate connection of the two kingdoms of England and Ireland, under one common head, gave them one common interest - mutual, inseparable and unalterable.'^{24/} Walter Hussey Burgh, who resigned as Attorney-General to support the Patriot cause, insisted that he 'could not patiently hear any man mention that we wanted to separate from Great Britain - we wanted no separation - we want to be on an equal footing.'^{25/} The partisans of the Administration naturally supported this view strongly: 'While England and Ireland stand together we never can be conquered,' or again, 'should there be any ill temper subsisting between England and Ireland the consequence would be alarming.'^{26/}

The desirability of the connection with Great Britain

^{22/} Lecky, Leaders of Public Opinion, i, 100.

^{23/} H.M.C., rep. 12, app., x, 37. Also: 'the interests of England and Ireland cannot be distinct, and... therefore, in acting as an Irishman I may always hope to perform the part of a true Englishman also.' Ibid, 58.

^{24/} Quoted in Grattan, Memoirs, i, 90.

^{25/} FJ, xvii, 112, 11 May 1780.

^{26/} Mr. Fortescue and Rt. Hon. J. Hely Hutchinson in House of Commons, 19 April 1780. Debates of the House of Commons of Ireland on a Motion whether the King's most excellent majesty, and the Lords and Commons of Ireland are the only Power competent to bind or enact laws in this Kingdom. (Dublin 1780), 8, 18.

^{27/} W. Seward, ed., Collectanea Politica, i, 212.

is another idea repeatedly urged in the resolutions of the Volunteers and other civic bodies. The Union Regiment and Edgeworthstown Battalion, after stressing Ireland's separate nationhood,^{27/} resolved respectively, that 'next to our liberties, we value our connection with Great Britain as a blessing, on which the happiness of both kingdoms depends',^{28/} and that 'we are attached by every tie of interest and affection to England, our sister kingdom.'^{29/} The citizens of Dublin expressed 'our earnest wish to maintain an inviolable connection between England and Ireland.'^{30/} The High Sheriff and Grand Jury of Co. Antrim desired 'to live on the purest terms of amity and most cordial friendship, our interest being inseparable, being the same blood and people,' and wished 'an inseparable connection between this country and Great Britain.'^{31/} The Corps of Dublin Volunteers felt that 'Great Britain and Ireland are, and ought to be inseparably connected,'^{32/} and the Electors of the University sought 'to render the connexion between this country and Great Britain as close and permanent as possible.'^{33/} A writer to the Volunteers caps the argument by alluding to 'a circumstance

^{27/} See page 39 above.

^{28/} Wilson, Resolutions of the Volunteers, 184.

^{29/} Grattan, Memoirs, ii, 260. Also: Newcastle & Donore Union (16 May 1780), Grattan, Miscellaneous Works, 155.

^{30/} FJ, xvii, 113, 13 May 1780. Also: Freeholders of Co. Dublin (7 March 1780), Hibernian Journal, x, 15 March 1780, 33.

^{31/} Wilson, Resolutions of the Volunteers, pp. 96-7.

^{32/} Ibid, 15.

^{33/} W.W. Seward, ed., Collectanea Politica, i, 212.

of singular notoriety,' the contrast between England's generous offer by the Peace Commissioners to America, 'states she pronounced in rebellion', and her strong reluctance 'to present the same unequivocal and satisfactory terms to a sister distinguished for sanguine attachment, affection and loyalty.'^{34/}

However, statements reflecting positive dislike of Britain are not entirely absent. Not unexpectedly, this is one point on which the Presbyterians expressed pronounced opinions. Dr. Campbell called England 'a country where...men speak of liberty without understanding it...whose power had been baneful to every people who had the misfortune to be connected with them.'^{35/} William Drennan thought that the empire was 'degenerating into a state of political dotage.'^{36/} A spate of anti-British sentiment welled up from the despair of the years 1779-80, before any substantial concessions had been made to Ireland, and before the feeling of national confidence engendered by the Volunteer movement. The letters of Owen Roe O'Nial, in particular, reflect bitterness towards England: 'We can trace all our misfortunes, the destruction

^{34/} Letter V from 'Lucius Hibernicus' to the Volunteers of Ireland, FJ, xix, 89, 16 March 1782. Grattan made a similar observation in his 'Declaration of Irish Rights', (19 April 1780), see page 24 above.

^{35/} Wm. Campbell, Sketches of the History of Presbyterianism in Ireland, 235. An unpublished manuscript in the possession of the Presbyterian Historical Society, Belfast. 'To have offered up prayers for success to the English arms... would have been a prostitution of character, a solemn mockery of things divine, approaching perhaps to blasphemy.', Ibid, 236.

^{36/} Unpublished portion of Letter No. 17 (13 December 1777) in typescript collection of Drennan Letters, at the Public

of our liberty and the failure of every public scheme to the power of England and our unfortunate connection with her. We must throw off her power and abjure her connection before we can either be free or happy.^{37/} Another well publicized letter-writer, Guatimozin, 'rejoiced in the checks which England had received in America... I cannot see any cause of joy in this country in the extension of British aggrandizement.'^{38/} Another pamphleteer in 1779 could 'conceive no proposition of a union coming from her [Great Britain] that would not be an aggravation of misery and a final blow to the nation.'^{39/} A year later, in a pamphlet addressed to Lord North, Francis Dobbs asserts that 'I will go so far as to say, if the ruin of England was to follow justice to Ireland, yet still we are entitled to that justice.'^{40/} A leading pamphlet of 1779 was entitled The Usurpations of England the Chief Source of the Miseries of Ireland; this publication premises its argument on the view that, 'we are called sister kingdoms but surely our common parent has not treated us alike.'^{41/} A melodramatic

^{37/} Letters of Owen Roe O'Nial to the Men of Ireland. (Dublin 1779), 41.

^{38/} The Letters of Gautimozin on the Affairs of Ireland, (Dublin 1779), 22.

^{39/} Letter to the People of Ireland, (Dublin 1779), 62.

^{40/} Francis Dobbs, A Letter to the Rt. Hon. Lord North on his Propositions in Favour of Ireland, (Dublin 1780), 18.

^{41/} The Usurpations of England the Chief Source of the Miseries of Ireland; and the Legislative Independence of this Kingdom the only Means of securing and perpetuating the Commercial Advantage lately recovered, (Dublin 1780), 9

writer in 1780 cried, 'Let us die the LAST of Irishmen, sooner than live the FIRST of British slaves.'^{42/} The most talked of denunciation of the English attitude was the peroration of the Prime Serjeant, Hussey Burgh, in the Irish House of Commons on 25 November 1779:

The usurped authority of a foreign parliament has kept up the most wicked laws that a jealous, monopolizing, ungrateful spirit could devise, to restrain the bounty of Providence, and enslave a nation, whose inhabitants are recorded to be a brave, loyal and generous people; by the English code of laws, to answer the most sordid views, they have been treated with a savage cruelty; the words penalty, punishment and Ireland are synonymous, they are marked in blood on the margin of their statutes; and though time may have softened the calamities of the nation, the baneful and destructive influence of those laws have borne her down to a state of Egyptian bondage. The English have sowed their laws like serpents' teeth and they have sprung up in armed men. 43/

In contrast to the Irish reiteration of the theme, the contention of being a separate nation and people is largely treated by the Americans as an unconscious argument, self-evident and hardly needing expression, much less emphasis. Although occasionally mentioned in refuting such ideas as 'virtual representation', it is not a dominant element in the expressions of American philosophy. Rather, American reasoning seems to proceed from an unspoken but undoubted belief in America's unique development and destiny, such as that epitomized by a comment of Benjamin Franklin in 1767: 'America, an immense territory, favoured by nature with all the advantages of climate, soils, great navigable rivers,

42/ The Times addressed to the Virtuous and Spirited Freemen of Ireland, (Dublin 1780), 19.

43/ Quoted in Grattan, Speeches, 1, 35. Hussey Burgh promptly resigned as Prime Serjeant. The last sentence was particularly widely quoted.

lakes, etc., must become a great country, populous and mighty; and will, in a less time than is generally conceived, be able to shake off any shackles that may be imposed upon her.^{44/}

Geography, of course, made this argument less disputable in the case of America. The different treatment of this doctrine is also symptomatic of the fact that Ireland's constitutional struggle was more a facet of its attempt to gain control of its legislature, while that of America reflected a divergence in the national development of Great Britain and America.

framework, which was, in turn, a principal justification of her contention for the 'superintending' supremacy of the British Parliament.

The Irish claim to an equal share in the rights of Britons occurs in all of the episodes of the Irish struggle against British dominance during the 18th century. In the third Drapier's Letter, Swift asserted that 'whatever

^{44/} Jared Sparks, ed., The Works of Benjamin Franklin, vii, 334.

common law we of Ireland have the same' and he wanted to know: 'Am I a Free-man in England and do I become a slave in six hours, by crossing the Channel?'^{1/} During the 1782 financial dispute, a pamphlet contained the ingenious query: 'Whether King William may not be said to conquer England in the same manner as King John did Ireland?'^{2/} The Irish

^{1/} Herbert Davis, ed., The Drapier's Letters and other Works, 1724-5, Jonathan Swift, 39, 41. See also page 39.

^{2/} Constitutional Queries Relating to Ireland, included in The Cabinet, containing a collection of various papers relative to the present political contest in Ireland, none of which are now first published, (London, 1784, 43).

THE RIGHTS OF ENGLISHMEN

Partly evolving from historical arguments, but also set forth frequently as an important constitutional doctrine in its own right was the contention that Irishmen were entitled to all the rights of Englishmen; and that the denial of such liberties to Irishmen was, per se, a threat to the freedom of Englishmen. It was a telling argument, for to deny it would be to place Great Britain in the awkward position of denying the empire-wide extent of her legal framework, which was, in turn, a principal justification of her contention for the 'superintending' supremacy of the British Parliament.

The Irish claim to an equal share in the rights of Britons occurs in all of the episodes of the Irish struggle against British dominance during the 18th century. In the third Drapier's Letter, Swift asserted that 'whatever liberties or privileges the people of England enjoy by common law we of Ireland have the same' and he wanted to know: 'Am I a Free-man in England and do I become a slave in six hours, by crossing the Channel?'^{1/} During the 1753 financial dispute, a pamphlet contained the ingenious query: 'Whether King William may not be said to conquer England in the same manner as King John did Ireland?'^{2/} The Irish

1/ Herbert Davis, ed., The Drapier's Letters and other Works, 1724-5, Jonathan Swift, 39. 31. See also page 35.

2/ Constitutional Queries Relating to Ireland, included in The Cabinet, containing a Collection of curious papers relative to the present political contest in Ireland, some of which are now first published, (London, 1754), 73.

claim to the rights of Englishmen was another argument that Lucas belaboured.^{3/} Over the years, newspaper correspondents rang changes on the theme. In 1770 one wrote that 'the natural, the constitutional, the legal rights of the subject are the same in both kingdoms.'^{4/} Another asserted in 1775 that 'we possess every degree of liberty and freedom that Englishmen can boast of.'^{5/} A third writing in 1780, declared that we are 'men entitled under that constitution to the privileges and immunities of British subjects.'^{6/} Irishmen were 'equal heirs of Magna Carta.'^{7/} Volunteer resolutions incorporated this theme.^{8/} In 1781 the Captain of the first Newry Volunteers told his corps that 'I am so

^{3/} C.Lucas, The Rights and Privileges of Parlements, (Dublin 1770), 68; The Address of Charles Lucas, M.D. to the Rt. Hon. The Lord Mayor, the Aldermen, Sheriffs, Commons, Citizens and Freeholders of Dublin, (Dublin 1765), 9: An Appeal to the Commons and Citizens of London by Charles Lucas, the last freeman of Dublin, (London, 1756), 7.

^{4/} Letter XV 'On Poynings' Law' from 'Liberty', Freeman's Journal, vii, 63, 8 February 1770.

^{5/} Letter V 'To the Freeholders of Ireland' from 'A Grazier," FJ, xii, 90, 23 March 1775.

^{6/} 'Considerations on what the Irish Parliament owes to itself and to the Nation at this Juncture', FJ, xvii, 58, 6 Jan 1780.

^{7/} R.Houlton, A Selection of Political Letters which appeared during the Administrations of the Earls of Buckinghamshire and Carlisle, under the signatures of Junius-Brutus, Hampden, The Constitutional Watchman and Lucius Hibernicus, (Dublin 1782), 51.

^{8/} Meeting at Large of the County of Cavan (13 March 1782) in C.H. Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries, etc., of Ireland, 52: Meath Volunteers (21 March 1782), Ibid, 89; High Sheriff and Grand Jury of County Antrim (22 March 1782), Ibid, 96.

fully possessed of your ancient and invaluable title to British privileges that I conceive anything short of the British constitution is short of your rights, and an insolent distinction between two kingdoms whose subjects are equal by nature, equal by franchise.^{9/} Charlemont wrote to Prime Minister Rockingham on these lines in 1782,^{10/} and, earlier (1779), Pery, Speaker of the Irish House of Commons, in his correspondence with Lord North, had advised the latter that Ireland's sincere attachment to the British nation was 'still more to the British Constitution.'^{11/} This argument was a particular favourite of Grattan. He expressed it most fully in his 'Declaration of Irish Rights' (19 April 1780):

The same laws, the same charters, communicate to both kingdoms, Great Britain and Ireland, the same rights and privileges...The King has no other title to his crown than that which you have to your liberty...Every argument for the house of Hanover is equally an argument for the liberties of Ireland; the Act of Settlement is an act of rebellion, or the declaratory statute of the 6th of George the First an act of usurpation, for both cannot be law. I do not refer to doubtful history, but to living record; to common charters; to the interpretation England has put upon these charters; an interpretation not made by words only, but crowned by arms; - to the revolution she had formed upon them, to the king she has deposed, and to the king she has established; and above all, to the oath of allegiance solemnly plighted to the house of Stuart, and afterwards set aside, in the instance of a grave and moral people absolved by virtue of these very charters. 12/

9/ Joseph Pollock, 'Reply to Address from first Newry Regiment' (18 November 1781), quoted in H.Grattan, ed. Miscellaneous Works of the Rt. Hon. Henry Grattan, 169. Italics in the original.

10/ H.M.C., rep. 12, app., x, 56.

11/ H.M.C., rep. 8, app., i, 202a.

12/ D.O. Madden, ed., The Select Speeches of the Rt.Hon.Henry Grattan, 61. See also 'Reply to the Address of the Lawyers Corps' (30 April 1780), quoted in Grattan, Misc.Works, 147.

The Irish also insisted strongly on the further point that any refusal of their British rights was in itself a threat to the rights of Britons themselves. This, too, was a contention that Grattan favoured; in 1782 he wrote to Charles Fox, in England, 'You cannot reconcile us to your claim of power without making us dangerous to your liberty,'^{13/} and earlier, in 1780, he made a point of emphasizing to a Volunteer Corps that 'I conceive the liberty of Ireland an additional security to the freedom of England.'^{14/} It was also a sentiment that Lucas did not overlook; he stated in clear fashion as early as 1768: 'They cannot...suffer, much less authorize, the slightest invasion of the rights or liberties of their neighbours, well knowing... if the kingdom of Ireland, or even the distant colonies, be enslaved, it is hard to point out the quarantine that can keep the infection from their own coats.'^{15/} The same sentiment, in very similar phrases, was also expressed at about that time in another pamphlet^{16/} and in a letter to the Freeman's

^{13/} H. Grattan, ed., Memoirs of the Life and Times of the Rt. Hon. Henry Grattan, ii, 273.

^{14/} Grattan, Misc. Works, 147. Grattan italicized the sentence quoted.

^{15/} C. Lucas, Seasonable Advice to the Electors at the ensuing General Election, (London and Dublin 1768), part ii, 12. Note the reference to America.

^{16/} A Modest Vindication of the Character and Conduct of a Great Officer of State in Answer to 'A letter to the Rt. Hon. J--- P-----, Speaker of the House of Commons in Ireland', (London, reprinted Dublin 1767), 2. The name implied is John Ponsonby.

Journal^{17/} - the latter, judging from the date and language, may also have been written by Lucas. A pamphlet in 1781 noted that since 'both kingdoms profess one constitution, and own but one King, it will therefore seem necessarily to follow that a detriment in constitution must be mutual.'^{18/} (The argument was given a reverse-twist by Government sympathizers in order to support the Perpetual Mutiny Bill, which the Patriots opposed, by the assertion that the people of England 'had been fools indeed if they had made us fellow-subjects, with a power to arm the crown, at our pleasure, against their liberties.'^{19/} Burke, looking at things from his situation in English politics, neatly reversed the whole argument: 'If ours [i.e. English liberty] be unstrung, yours will be hung up on a peg, and both will be mute forever.'^{20/}

Several resolutions of the Volunteers give an added

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- ^{17/} Letter from 'Marcelus', FJ, v, 39, 16 January 1768. Compare the following with the quotation from Lucas: 'If they [Ireland or America] be infected with the horrible pestilence of slavery, what quarantine will be able to keep the contagion from your [British] coast?'
- ^{18/} Dr. Fred Jebb, M.D., Strictures on a Pamphlet lately published entitled 'Considerations submitted to the People of Ireland in Answer to a Pamphlet entitled 'Observations on the Mutiny Bill,' (Dublin 1781), 52. Authorship is given by a manuscript note on the copy in the Halliday Collection at the Royal Irish Academy, Dublin.
- ^{19/} Considerations Submitted to the People of Ireland on their Present Condition with Regard to Trade and Constitution, In Answer to a Pamphlet lately published entitled 'Observations on the Mutiny Bill,' (Dublin 1781), 46.
- ^{20/} E. Burke, A Letter from Edmund Burke, Esq., in Vindication of his Conduct with Regard to the Affairs of Ireland addressed to Thomas Burgh, Esq., Member of Parliament for Athy, (London and Dublin, 1780), 17.

element to the overall theme, namely, that Ireland was entitled to and determined to enjoy the full rights of Britons because Ireland had forcefully shown its determination to stand by Great Britain in its danger from French attack. 'As we are willing to share their fate in the extremities of danger, we are resolved to enjoy the free constitution they boast, and to which we are equally entitled.'^{21/} This thought bears out the strong basic pro-British attitudes inherent in the Anglo-Irish even in the most forceful manifestation of the patriot cause, the Volunteer movement.

At the opening of the controversy in America the Colonists immediately seized upon their rights as Englishmen as the keystone of their arguments. From 1765 until the years just before independence it was the most prominent of American contentions, and was only surpassed by the natural law doctrine in the later years almost at the outbreak of hostilities. As descendants of Englishmen they claimed the blessings of the British Constitution: 'the people of this colony are free born, and have a right to the liberties and privileges of English subjects.'^{22/} The American colonists were not even averse to asserting that they enjoyed 'the

^{21/} Bandon Meeting (25 March 1782) in Wilson, Resolutions of the Volunteers, 108. See also: Connaught Volunteers (15 March 1782), Ibid, 60; Queens County Lent Assizes, 1782, Ibid, 159; Pollock, 'Reply to Address...' Grattan, Misc. Works, 169.

^{22/} R. Bland, The Colonel Dismounted, (Williamsburg 1763), 22. Also reprinted in William and Mary Quarterly, xix, pp. 31-41. Italics in original. Note that the date of publication was two years before the Stamp Act.

British constitution in greater purity and perfection than they do in England.^{23/} This constitutional argument appeared often, particularly during the 1765-1770 period, in official American statements, which were regularly reprinted in the Freeman's Journal, and in letters to European correspondents that were published in Ireland. In its unanimous resolutions on the Stamp Act, the Pennsylvania Assembly began from the premise 'that the inhabitants of this Province are entitled to all the rights and privileges of his Majesty's subjects in Great Britain.'^{24/} In 1768 the Massachusetts House of Representatives stated, in a circular letter, that 'his Majesty's American subjects... have an equitable claim to the full enjoyment of the fundamental rules of the British Constitution.'^{25/} As early as June, 1765 (the Stamp Act was only passed in April), a merchant in Philadelphia wrote to his correspondent in London that the colonists were most alarmed by 'being deprived of those rights, those distinguished and invaluable rights of Britons.'^{26/} Similar quotations from those years abound; it was the tone of the first American rush to argument.

^{23/} C.F. Adams, ed., The Works of John Adams, iv, 117.

^{24/} Reprinted in FJ, iii, 27, 7 December 1765

^{25/} FJ, vi, i, 3 September 1768. Reprinted from the Massachusetts Gazette, 27 June 1768. The circular letter itself was dated 11 February 1768.

^{26/} Reprinted in FJ, ii, 104, 3 September 1765. The letter was dated 19 June 1765.

The Irish and Americans were closer in their appeal to their rights as Englishmen than in the other elements of constitutional theory. This was one field in which there was an occasional specific comparison by Irish writers of the American situation with that of Ireland, particularly in the interval between the opening of hostilities and the Declaration of Independence. Reacting to the news of Lexington and Concord, an Irish writer exhorted the people of Ireland to view it as a common struggle: 'Are we entitled to the rights and freedoms of British subjects? They Americans are entitled to the same. We could not look with indifference upon any invasion made upon the rights of any other of our fellow-subjects.'^{27/} The claim to the rights of Englishmen was a congenial argument for the Irish patriot group. Although distinctly conscious of the concept of Ireland as a separate nation, they still felt strong ties with Great Britain, and, in a sense, viewed themselves as bearers of the British character and traditions in Ireland. This feeling is highlighted by the expressions of the Volunteers that Ireland was resolved to share Britain's dangers as well as her liberties. Throughout the colonial period in America political thinking had been dominated by attachment to the rights of the British constitution, the opportunity to enjoy which had brought many of the colonists

^{27/} Letter 'To the People of Ireland' by 'Valerius', FJ, xii, 127, 17 June 1775. The first full reports of the fighting at Lexington and Concord had been printed in FJ, xii, 122, 6 June 1775. See also 'Letter III' from 'Amicus Americanus', FJ, xiii, 140, 16 July 1776.

to America. The Anglo-Irish, particularly the patriots, and the Americans, especially in New England, were children of seventeenth-century England. Both were offspring of the protest against Stuart absolutism and looked back in their historic consciousness to an age in which England had been acutely aware of liberties and rights against governing authority (but an era from which England itself was far removed by nearly a century's political development). Similarly, the Irish and Americans were in considerable accord on several aspects of constitutional theory which were broad sub-divisions of the rights of Englishmen, such as taxation and representation, which warrant separate discussion below.^{28/}

Despite this vast area of innate agreement it is again indicative of the difference in the Irish and American situations that the latter, slowly and reluctantly, but increasingly, shifted to other arguments as the struggle steadily became a conflict between diverging nations, while the Irish, if anything, increased their use of this argument in an effort to win the rights which would enable them to control their own country, but always within the benign scope of the British Empire and constitution.

^{28/} See Chapters VII and VIII below.

CHAPTER V
CITATION OF PRECEDENT

Closely related to the concept of Ireland as a separate nation was an extensive resort to precedent to deduce that Ireland was not subordinate to Great Britain, and particularly, that the acts of the British Parliament were not binding in Ireland. The precedents were extraordinarily complex and confused, and it is outside the scope of this thesis to attempt to trace or analyze them. Very briefly, the principal contentions of the Patriot writers were:

1. That the rule of the English Crown in Ireland had been established by Henry II by compact with the Irish lords, not by conquest of the country. Accordingly, Ireland was not a kingdom subordinate to England, but an equal entitled to her own political organisation and separate law on a par with, but distinct from, England. (In an aside, some writers queried whether, even if a title by conquest was admitted, they were not the descendants of those who actually performed the conquest, and, therefore, entitled to whatever supposed rights or status were conferred thereby.)

2. That laws passed in England were binding in Ireland in only two ways: (a) without specific re-enactment in Ireland if they were only declaratory of existing common law - which had been extended to Ireland by Henry II and re-confirmed to Ireland by Henry VII at Poyning's Parliament; or (b) by specific re-enactment by the Irish Parliament if the laws embodied new statutory or administrative provisions.

Despite the interpretative ingenuity of the Irish patriot writers, the verdict of historical research seems undeniable that, far more often than not, English laws were binding in Ireland, without any distinctions as to common law, declaratory law, re-enactment in Ireland, or the specific naming of Ireland in the laws. In their thoroughly documented study, The Irish Parliament In the Middle Ages, Richardson and Sayles conclude:

Of the power of the Crown to legislate for Ireland there was no question or, at least, no question that was seriously put and maintained by legal argument. Not only were English statutes, as part of the common law, binding in principle upon Ireland, but the King legislated from time to time specifically for Ireland. It is true that much English statutory law of the Fourteenth and Fifteenth Centuries was irrelevant, and the Irish government and parliament were moved at times to select what should be enforced; this action, however, was not to question the validity of English legislation but to make its application more effective. 1/

Citation of historical precedents occurs regularly in the Irish material and, in fact, is so frequent and repetitive that it was impossible to continue noting every example. Lucas dwells laboriously on historical precedents in most of his pamphlets, 2/ and much of the burden of Flood's speeches in the House of Commons rests on lengthy analyses of

1/ H.G. Richardson & G.O. Sayles, The Irish Parliament in the Middle Ages, 244. See also pages 93, 147 and 273 for examples.

2/ See, for instance: The Rights and Privileges of Parlements (Dublin, 1770); Seasonable Advice to the Electors at the ensuing General Election, (London and Dublin, 1768); The State of Ireland Laid Open to the View of His Majesty's Subjects, (London, 1754); Truth Against Craft, (Dublin 1754).

precedents.^{3/} Grattan's speech on the 'Rights of Ireland' (22 February 1782), one of the leading statements of the Patriotic viewpoint, was centred on a rhetorical exposition of precedent.^{4/} In the Commons debate on his motion many speakers based their arguments on precedent.^{5/} The well-known Letters of Guatimozin contain a great deal of precedent.^{6/} The pamphlets on Poynings' Law^{7/} and the Commons debates on that Act^{8/} are filled with elaborations of precedent. During the 1781 debate on the Act, Flood proposed a motion (which failed), 'that a committee be appointed to examine the precedents and records this day

- 3/ Debates of the House of Commons of Ireland on a Motion whether the King's most excellent majesty, and the Lords and Commons of Ireland are the only Power competent to bind or enact laws in this kingdom, (Dublin 1780). (These debates were also reported in Freeman's Journal, xvii, 104, 22 April 1780). The Parliamentary Register, i, pp. 153-7.
- 4/ D.O. Madden, ed., The Select Speeches of the Rt. Hon. Henry Grattan, pp. 66-81.
- 5/ Several examples in Debates on a Motion, passim.
- 6/ The Letters of Gautimozin on the Affairs of Ireland, (Dublin (1779), 8, 9, 11, 13.
- 7/ Sketches of the History of Poynings' Law and the Usage of Parliament in Ireland in the Reigns of the Tudors, deduced from matters of Record, and other authentic documents, (Dublin 1780); Considerations on the Intended Modifications of Poynings' Law, (London 1780); Plain Reasons for New Modelling Poynings' Law in such a manner as to assert the Ancient Rights of the Two Houses of Parliament without entrenching on the King's Prerogative, (Dublin 1780).
- 8/ FJ, xvii, 107, 29 April 1780; Parliamentary Register, i, pp. 153-174.

produced.^{9/} Charlemont cited precedent;^{10/} it was used in Baratariana,^{11/} and it filled many letters to the Freeman's Journal.^{12/}

Most citations of precedent were incomplete, many were sketchy, and a good number were incorrect in important particulars. In some cases the interpretation of precedents can only be described as laboured in attempts to make history fit the writers' theories. The Irish writers felt obliged to resort heavily to precedent, but not necessarily to abide by it. Favourable precedents and interpretations were repeatedly cited; the conflicting evidence was generally ignored. The uncritical utilisation of Molyneux's Case of Ireland Stated^{13/} exemplifies the essential shallowness of the patriot group's citation of precedent. The influence of his exposition is plain. Grattan's speech on the Rights of Ireland is primarily a rhetorical re-statement of Molyneux's argument. As pointed out by

^{9/} Parliamentary Register, i, 157.

^{10/} H.M.C., rep. 12, app., x, 28. See also his use of precedents in the question of the order of precedence of the Irish lords in the coronation procession of George III, Ibid, pp. 16-18.

^{11/} Baratariana, A Select Collection of Fugitive Political Pieces published during the Administration of Lord Townshend in Ireland, (Dublin 1773 - 2nd edition), pp. 20-22.

^{12/} As random examples, see: Letter from 'Lictor', FJ, xvi, 154, 14 August 1779; letter from 'Decius', FJ, xvii, 60, 1 August 1780; letter from 'The Ghost of Swift', FJ, iii, 44, 4 Feb. 1766.

^{13/} William Molyneux, The Case of Ireland being bound by Acts of Parliament in England stated, (Dublin 1698).

Lecky,^{14/} Flood and Lucas were also obviously strongly influenced by Molyneux. Yet, Molyneux's precedents and arguments are often transparent and inaccurate, even by the standards of historical research of the 18th century. In 1750 Walter Harris first published in Dublin, as Part II of his Hibernica,^{15/} two pamphlets written in 1644, citing and developing extensively both viewpoints regarding the historical precedents. There is considerable internal evidence that Molyneux drew heavily from one of these, Sir Richard Bolton's A Declaration setting forth how, and by what means, the Laws and Statutes of England, from time to time, came to be of Force in Ireland. However, he apparently was unaware of the other pamphlet, Sir Samuel Mayart's long reply to Bolton, which methodically and effectively demolishes the latter's arguments, generally through more exact knowledge of the historical precedents involved. Professor Schuyler goes so far as to assert that it is almost certain that Molyneux would not have written as he did if Mayart's Answer had been known to the public of his day.^{16/} (Although difficult reading, these two pamphlets probably summarize the opposing viewpoints regarding historical precedents as well as any other works.)

Historical precedents occupy a subordinate position in American arguments. After tentative references to the

^{14/} W.E.H. Lecky, Leaders of Public Opinion in Ireland, 1, 40.

^{15/} Walter Harris, ed., Hibernica, (Dublin 1750), Part II.

^{16/} R.L. Schuyler, Parliament and the British Empire, 71. Professor Schuyler examines these two pamphlets at some length.

colonial charters in the earlier years of the constitutional dispute, the Americans more and more shifted their ground to theoretic contentions, and eventually almost entirely abandoned the serious use of arguments derived from historical precedents. In addition, throughout the controversy, historical precedents, when cited, are not used solely as an argument in themselves, but as evidence for theory. Historical citations were introduced in such fashion by many of the prominent writers.^{17/} Even many of the references to the charters, such as those by Richard Bland as early as 1766,^{18/} were not on the basis of precedent but as support for theory. (Incidentally, one of the theories developed by Bland, and forcefully put forward later in Jefferson's Summary View of the Rights of British America, was that the rights derived by emigration from England and settlement of America belonged to the Americans as descendants of the persons who performed these deeds.^{19/} This contention was very similar to the Irish view that they, as the descendants of the conquerors of Ireland, were entitled to any rights conferred thereby.^{20/}) Essentially, however, the

^{17/} John Adams, Dickinson and others also looked into the Irish precedents, but clearly were not prepared to rest their cases on such material. See: C.F. Adams, ed., The Works of John Adams, iv, pp. 151-169; J. Dickinson, Letters from a Farmer in Pennsylvania, quoted in S.E. Morison, ed., Sources and Documents Illustrating the American Revolution, pp. 51-3.

^{18/} See Richard Bland, An Inquiry into the Rights of the British Colonies, (Williamsburg, 1766).

^{19/} Ibid, pp. 14-15. See also R. Bland, The Colonel Dismounted, (Williamsburg, 1763), reprinted in William and Mary Quarterly, xiv, pp. 31-41; J.P. Boyd, et al., eds., The Papers of Thomas Jefferson, 1, pp. 121-122.

^{20/} See above, page 58.

predominant American attitude towards precedent came to be that flamboyantly expressed in a well-known passage by Alexander Hamilton:

The sacred rights of mankind are not to be rummaged for among old parchments or musty records. They are written as with a sunbeam, in the whole volume of human nature, by the hand of the divinity itself, and can never be erased or obscured by mortal power. 21/

The Irish resort to arguments from historical precedent may seem surprising, but actually it represents a logical development. At first glance, it appears contradictory that the Irish, who had 500 years of tangled precedent to argue away, should have used historical arguments so extensively, while the Americans, who had far fewer and less damning precedents with which to contend, soon pushed this field well out of the main scope of the argument by resort to natural law and other theoretic rights whose terms of contention made the question of unfavourable precedents irrelevant. The answer lies again in the peculiar position of the Irish Ascendancy. Their position in Ireland was dependent on precedent in an immediate way, as the very origin and basis of their land titles, their religion, and their ties to England. This was true of the patriot group as well as the pro-administration section of the Anglo-Irish. Charlemont worried over what he described as 'antiquated and abortive claims on the one side, and on

21/ H.C. Lodge, ed., The Works of Alexander Hamilton, 1, 61.

the other ... a perpetual dread that these claims might one day be successfully asserted.^{22/} Fear for the titles to the confiscated lands was used in defeating Grattan's first attempt in 1780 to secure Irish rights.^{23/} It is intriguing to note that even when autonomy was obtained in 1782, the Irish Parliament, as one of its first acts, was careful to validate the land titles:

'Whereas... upon occasion of the rebellion which subsisted in this Kingdom in the years 1641 and 1688 divers statutes were made in the Parliament of England, and since the union in the Parliament of Great Britain, for settling and assuring the forfeited and other estates in this Kingdom, and for the regulation of trade, and other purposes; and whereas it is at all times expedient to give every assurance, and to remove every apprehension concerning the title of lands...' all English statutes for settling forfeited estates, and all private acts relative to landed property, as well as acts concerning commerce or seamen, were made binding in Ireland. 24/

Precedent, thus, could be ignored only at peril to the foundations of the 'Ascendancy'. The long and proud history of Ireland also gave precedent a venerable and attractive position. After all, it was never challenged that Ireland was entitled to and did have, a 'Parliament', a word which virtually no one in Great Britain was prepared to concede was applicable to the colonial legislatures in America. By contrast, the Americans felt but lightly the weight or majesty of precedent, many being themselves

22/ H.M.C., rep. 12, app. x, 47.

23/ Debates... on a Motion, 8, 20.

24/ T.J. Kiernan, History of the Financial Administration of Ireland to 1817, 230.

immigrants, and few being more than one or two generations removed from the actual immigrants. Not only were the ties with Great Britain inevitably lighter because of the distance between the two lands, but the pressing reason for dependence upon Great Britain had been removed by the ousting of French power from Canada. In addition, as pointed out in a succeeding chapter,^{25/} the natural rights argument was congenial to the Americans for it represented essentially an argument to reality - their status and history roughly approximated to the natural rights doctrine.

The Irish were also faced with the peculiar handicap of Poynings' Law. This Act, which on its strict terms virtually eliminated any initiative from the Irish Parliament, was a historical fact that could not be disregarded. Historical precedents and interpretation had to be utilized in an effort to negate or reduce the stultifying restrictions of this Law. Although the Irish patriots sought, by interpretation, to exclude money matters from the scope of Poynings' Law,^{26/} and to eliminate the Irish Privy Council from the working of its system,^{27/} they never were able to

^{25/} Page 75 below.

^{26/} Considerations on the Intended Modifications of Poynings' Law, pp. 14-15; The Constitution of Ireland and Poynings' Law Explained, (Dublin 1770), 5; Baratariana, 61, 83; Letter V 'On Poynings' Law' from 'Liberty', FJ, vii, 52, 13 Jan. 1770.

^{27/} Considerations, pp. 14-17; Plain Reasons for New Modelling Poynings' Law, 8; Baratariana, pp. 50-52; Remarks Upon Poynings' Law and the Manner of passing Bills, in the P.....t of I.....d. by a Gentleman of Ireland, (Dublin 1757), passim.

evolve any argument from precedent to undermine the validity of this Law. Reading the natural rights standards of the 18th century back into this medieval Act, several pamphlets and Volunteer resolutions in tones of frustration condemn the Law as a breach of trust by Parliament as the trustee of the people.^{28/} Lucas wrote bitterly of 'that most infamous, unjust and anti-constitutional law, called after its detestable inventor, Poynings'.^{29/} Other more perceptive commentators sought to go behind the mere precedent itself; they pointed to the historical context in which and for which the Act was originally passed, and contended that its purpose had been completely and incorrectly altered over the centuries.^{30/} (The Administration refused any amelioration of Poynings' Law until it was too late. In 1782, when

28/ Sketches of the History of Poynings' Law and the Usage of Parliament in Ireland in the Reign of the Tudors deduced from matters of Record and other authentic documents, (Dublin 1780), 26; Plain Reasons, pp. 10-11; Meeting at Large of the County of Cavan (13 March 1782), in C.H. Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries, etc., of Ireland, 52; Birm Meeting (20 March 1782), Ibid, 87.

29/ Lucas, Seasonable Advice, 22.

30/ Considerations, 16; Plain Reasons, 14; Baratariana, pp. 50-51; Constitution of Ireland and Poynings' Law, 14; A Letter to Sir L-----s O-----n, Bart., on the Late Prorogation, (Dublin 1770), 22; Speeches of Flood and Provost Hely-Hutchinson in House of Commons, Parliamentary Register, i, pp. 153-7, 158; Letter II 'On Poynings' Law' from 'Liberty', FJ, vii, 48, 4 Jan 1770. For comment on the original intent of Poynings' Law and its early interpretation see: Richardson and Sayles, op. cit., 274, 279; D.B. Quinn, 'The Early Interpretation of Poynings' Law, 1494-1534', Irish Historical Studies, ii, pp. 241-254; R.D. Edwards and T.W. Moody, 'The History of Poynings' Law: Part I, 1494-1615', Irish Historical Studies, ii, pp. 415-424.

Yelverton proposed to eliminate the Irish Privy Council from the Poynings' Law system, the Government had come to look on the idea as a good compromise for Irish demands for increased independence. On 12 March 1782, Carlisle, the Lord Lieutenant, wrote to Hillsborough describing Yelverton's proposal as 'a middle and lenient course... favourable and dignified opportunity for Great Britain at least to cut down this plant [Declaratory Act of 1719] from which nothing wholesome will ever be gathered.'^{31/} By then, it was too late to turn aside the demand for much greater legislative independence for Ireland.)

As an addendum to this discussion, it is interesting to note that Patriot writers from time to time betrayed uneasiness about using Irish precedents, sensing that they were on insecure ground. Fortunately for the patriots, no pro-administration writer showed Serjeant Mayart's perspicacity in setting forth the precedents which would have placed in question the Patriots' reading of history. Pro-administration spokesmen did, however, insist that acceptance implied consent: 'does not an acquiescence to the law of England for sixty years past, to all intents and purposes render it binding here?'^{32/} Some of the Irish patriot

^{31/} Quoted in W.E.H. Lecky, A History of Ireland in the Eighteenth Century, ii, 290.

^{32/} Mr. Fitzgerald in the House of Commons on 19 April 1780. Debates... on a motion, 13. See also the speeches of Mr. Toler, Rt. Hon. J.H. Hutchinson, and Attorney General Scott, Ibid, 14, 16, 20-21.

^{33/} O.J. Mulla, Fundamentals of Law, 1760-1776, 146.

commentators, accordingly, took pains to discount the efficacy of precedents. Earlier, Swift had commented fretfully on the difficulty in relying on precedent: 'there will not want a lawyer to justify the legality of ["a job...to be done"] by producing his precedents, without ever considering the motives and circumstances that first produced them.'^{33/} Lucas exclaimed: 'If the subjects of these kingdoms are to be ruled by precedents, without distinction, Lord have mercy upon us!'^{34/} and he was echoed in 1770 by a writer to the Freeman's Journal who labelled precedent as 'the law of knaves and fools... an authority the iniquitous appeal to when law and justice are both against them.'^{35/} (Dickinson, on the American side, also complained that submission to precedents did not legalize them, since those against the welfare or happiness of a people were void.)^{36/} In both of his principal speeches on Irish rights, Grattan made a point of a similar disclaimer (although in both speeches he also cited extensively from

^{33/} Herbert Davis, ed., The Drapier's Letters and Other Works 1724-5, Jonathan Swift, 40.

^{34/} Lucas, Rights and Privileges of Parlements, 15. See also The Address of Charles Lucas, M.D., to the Rt. Hon. the Lord Mayor of Dublin, the Aldermen, Sheriffs, Commons, Citizens and Freeholders of Dublin, (Dublin 1765), 11: 'The black list of Poynings' ... which must be handed down to latest posterity with bitterest anathemas and foulest infamy.'

^{35/} Letter from 'Intrigue', FJ, vii, 99, 3 May 1770. See also letter 'To Dr. Samuel Johnson' from 'Tyranny', FJ, xii, 128, 20 June 1775.

^{36/} C.J. Mullett, Fundamental Law and the American Revolution, 1760-1776, 145.

precedents):

That there are precedents againstus I allow---acts of power I would call them, not precedents; and I answer the English pleading such precedents as they answered their kings when they urged precedents against the liberty of England, such things are the weakness of the times; the tyranny of one side, the feebleness of the other, the law of neither...^{37/}

I have shown the claim of England is not a case of precedent; violation is not legislation; robbery unpunished does not repeal the decalogue... What has been the conduct of the people of England on the subject of precedent?... her declaration of rights after reciting precedents against the liberty of the subject says, "All such doings, and so forth, shall be utterly void."^{38/}

37/ Madden, Speeches, 62 (Declaration of Irish Rights, 19 April 1780), 73 (Rights of Ireland, 22 Feb. 1782).

38/ John Locke, Of Civil Government, Chapter II, Declaration of Independence, Civil Liberties, 123-24.

CHAPTER VI

NATURAL LAW

In some respects, the most interesting contrast between Irish and American constitutional theory is found in their respective uses of natural right doctrines.

The doctrine of natural rights was commonly accepted in the eighteenth century as the foundation of social philosophy. The progress of scientific investigation had created the presumption that the mind of God could be made out by studying the mechanism of his created universe. Since God was working out his purpose in man, the laws governing man's universe, i.e., natural law, must be identical with the law of God. Scientific progress had created confidence that man could understand the natural law, to which, as the will of God, all human morality, religion and politics ought to conform. The faculty of reason, through which man learned these things, was obviously the guide which God had given to man to judge his conduct and institutions against the eternal standard. Reason, therefore, was the only acceptable rule of human society, and it was the only foundation of just government, the institution which man devised to regulate his life with his fellow men.

... and so I ask, not what authority any government has in fact, but what authority it ought in reason to have; and I answer that it ought to have the authority which reasonable men, living together in a community, considering the rational interest of each and all, might be disposed to submit to willingly. 1/

1/ John Locke, Of Civil Government. Quoted by C. Becker, The Declaration of Independence, A Study in the History of Political Ideas, 2nd ed., 1948, 71.

This philosophy pervaded virtually all thought and teaching in Ireland and America. The writings of Locke, Pope and Newton, and their popularizers, were widely printed and read in both countries. They were taught not only at the English universities attended by young Irishmen and Americans, but also at Trinity College in Dublin and at the principal colleges in America. Among the subjects taught at Trinity in 1759 was 'The Newtonian Philosophy' and it was noted that 'Mr. Locke's Metaphysicks prevail much in the College of Dublin.'^{2/} The public prospectus advertising the opening of King's College (now Columbia) in New York in 1754 announced the intention of leading the students 'from the Study of Nature to the Knowledge of themselves, and of the God of Nature, and their duty to Him, themselves and one another'.^{3/}

The natural law philosophy was an integral element of the British cultural heritage of the age. There can be no doubt that the Irish were imbued with the natural rights doctrines. The patriot group of the Anglo-Irish Ascendancy harked back repeatedly to the role that this philosophy had played in the events of 1688, which had established the cast of England's eighteenth century political life, and which had been the very foundation of the Ascendancy position

^{2/} Antient and Modern State of Ireland, quoted in C. Maxwell, Dublin Under the Georges, 159.

^{3/} New York Gazette, 3 June 1754, and New York Mercury, 3 June 1754, quoted in C. Rossiter, Seedtime of the Republic, 123.

in Ireland. The newspapers of the times, and their correspondents, seemed to delight in elaborate philosophical tracts, most of which were based on principles of natural rights. The first issue of the Freeman's Journal presented such an exposition to explain its declared policy of offering a free press, requiring a page and half before concluding: 'Every man, by common right, hath a person, a character, or a property to defend, and should any of these be invaded, our laws offer to the injured party a freedom of action; and we hereby offer him a freedom of complaint.'^{4/}

Passages reflecting the natural law philosophy are scattered through the patriot literature. The passing nature of these remarks evinces the fact that this doctrine was virtually an unconscious and pervasive assumption in Irish minds.^{5/} A Volunteer resolution of 1782 proclaimed: 'That to neglect supporting and cultivating our natural rights, the gift of heaven... would be ingratitude to God, disaffection to our country, and injustice to our posterity.'^{6/}

^{4/} Freeman's Journal, 1, 1, 10 Sept. 1763.

^{5/} For a random selection of further quotations mentioning natural law doctrine see: 'The Watchman, No. 22,' FJ, 1, 32, 27 Dec. 1753; 'The Watchman, No. 45,' FJ, 1, 63, 14 April 1764; letters from 'Alfred,' FJ, xi, 61 & 64, 13 & 20 Jan. 1774, and various following numbers to No. 89, 19 Mar. 1774; 'On the Origin of Power', FJ, xv, 36, 13 Nov. 1777; A Letter Concerning Prerogative, (Dublin 1755), 7, 24, 25, 33; Advice to the Patriot Club of the County of Antrim on the Present State of Affairs in Ireland, and some late changes in the Administration of that Kingdom, (Dublin 1756), 4.

^{6/} Raford Brigade, (1 Mar. 1782) in C.H. Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries etc. of Ireland, 14.

In 1770, the writer of a series of letters on Poyning's Law, which appeared in the Freeman's Journal, noted that, 'the powers of our nature are a sacred trust, which we cannot resign or neglect without offence against Heaven; to prevent which, the great author of our nature has implanted in us a continual concern for happiness, the genuine result and promised recompense of the right use of those powers.'^{7/} As early as 1760 a pamphleteer advised the people of Ireland that, 'liberty...is that image of divinity which God impressed upon man, and, so far as man can retain it, either here or hereafter, so far must he partake of the power, wisdom, and goodness of his Creator.'^{8/} Even a pro-British writer, who was arguing against the power of the people, was constrained to begin his arguments from the premises that 'liberty is the inherent birthright of mankind which God has given to all His creatures' and that 'the voice of the people is called the voice of God.'^{9/}

Natural rights doctrines were always a strong strand in American thought. The natural law concept was certainly never unimportant. Particularly in New England, it had been developing through the first half of the eighteenth century, as epitomized in the thinking of such a man as

^{7/} 'Letter XIII on Poyning's Law', FJ, vii, 63, 3 Feb. 1770.

^{8/} Liberty and Common Sense to the People of Ireland, Letter II, (Dublin 1760), 6.

^{9/} Thoughts on the Present Alarming Crisis of Affairs humbly submitted to the Serious Consideration of the People of Ireland, (Dublin 1779), 5-6.

John Wise.^{10/} By 1760 it came to be much more widely used, and after 1773 there were few writings in which it was not of real importance. The natural law philosophy seemed congenial to the Americans because the governmental system under which they were living did, in a rough and ready way, conform to the kind of government for which Locke furnished a reasoned foundation. This doctrine assured them that their own governments, with which they were well content, were just the sort that God had designed men by nature to have.

Expressions of natural law doctrines abound in the American literature. 'Civil Government is founded in the very nature of man, as a social being, and in the nature and constitution of things,' stated Rev. John Tucker in a sermon in 1771.^{11/} The Continental Congress declared that 'a reverence for our Creator, principles of humanity, and the dictates of common sense, must convince all those who reflect upon the subject, that government was instituted to promote the welfare of mankind.'^{12/} Civil government, said John Adams, is 'founded in nature and reason.'^{13/}

Strengthened by its understandable appeal, the natural

^{10/} See the chapter on Wise in Rossiter, Seedtime of Republic, pp. 205-226.

^{11/} John Tucker, A Sermon Preached...May 29th, 1771, (Boston 1771), 12.

^{12/} Journals of the Continental Congress, ii, 140.

^{13/} C.F. Adams, ed., The Works of John Adams, iii, 454.

^{14/} W. Blackstone, Commentaries, i, 125.

rights doctrine became in the years just before the Revolution the foundation of virtually the whole American argument. It was the dominant consideration of all the leading writers--the two Adamses, Jefferson, Franklin, Wilson--culminating in the Declaration of Independence's memorable synthesis of this philosophy.^{14/} This doctrine swept away other equivocal arguments, and offered a common ground for men of all colonies and natural origins.

The Americans contended that it was but a half-truth to assert (as did Blackstone) that in all governments 'there is and must be... a supreme, irresistible, uncontrolled authority, in which the jura summi imperii, or rights of sovereignty, reside,'^{15/} and that in the British Empire this authority was the British Parliament. This contention, said the Americans, must be judged in the light of the law of nature, which was superior to any other obligation. All just and proper human organizations had to conform to this pervasive God-given law. To accord with the law of nature, the happiness of society must be the indispensable first object of every government. This aim required the consent of the governed. The 'supreme, irresistible, uncontrolled authority' was not Parliament, but the people. Accordingly,

^{14/} Under the column devoted to Dublin news the Freeman's Journal, xiv, 1, 24 Aug. 1776, commented: 'The declaration of the Congress is looked upon as the best explanation of the rights of the people, which has been published this age. It clearly points out the duty of the Governor and the governed.'

^{15/} W. Blackstone, Commentaries on the Laws of England, i, 49.

the British Parliament was sovereign over Britons, because it ruled them with their consent. But it could not be supreme over Americans because they had no control over it to ensure that it would govern for the benefit of American society, the only and inviolable end of government authority in America.

The net result was a dominion theory of empire. By 1770 Franklin ^{16/} and other American commentators ^{17/} were expressing the view that Parliament had no power to make laws for America. In 1774 John Adams' Novanglus, Jefferson's Summary View, and Alexander Hamilton's The Farmer Refuted all arrived virtually simultaneously at the conclusion that Parliament could not and did not possess any power to pass laws for the colonies, and that the allegiance of Americans was to the Crown alone. ^{18/} The classic statement of this position is James Wilson's Considerations on the Nature and Extent of the Legislative Authority of the British Parliament, in which he reaches the sweeping conclusion that it is 'repugnant to the essential maxims of jurisprudence, to the ultimate end of all governments, to the genius of the British

^{16/} J. Sparks, ed., The Works of Benjamin Franklin, vii, 470, A.H. Smyth, ed., The Writings of Benjamin Franklin, v, 260.
^{17/} Edward Bancroft, Remarks on the Review, (London 1769), 75, 83; John Allen, An Oration Upon the Beauties of Liberty, (Boston 1773); New Hampshire Gazette (Portsmouth, N.H.), 26 July 1771; Boston Gazette, 27 January & 17 February, 1772.
^{18/} J. Adams, Works, iv, 99, 105, 114; J.P. Boyd, et. al., eds., The Papers of Thomas Jefferson, i, 123, 129; H.C. Lodge, ed., The Works of Alexander Hamilton, i, 64, 73, 109.

constitution, and to the liberty and happiness of the colonies, that they should be bound by the legislative authority of the parliament of Great Britain.^{19/}

In sharp contrast, the Irish patriot literature utilizes natural rights only in skimpy fashion. There is no comprehensive exposition of a constitutional theory based on natural law. The scattered references demonstrate the social pervasiveness of this doctrine, rather than its advancement as a considered line of thought on constitutional problems. Even these minor references to natural right ideas were limited until the culmination of the pro-independence struggle in the years just before 1782 (which was, it should be noted, a half dozen years after the Americans' strong advocacy of these doctrines.)

There is very little mention of natural law doctrine, much less consistent presentation of full-bodied constitutional theories derived from that philosophy, in the thoughts of any of the leading patriots, nor in the Parliamentary debates, nor in the prominent pamphlets. Surprisingly, these ideas are hardly mentioned in the several arguments for Parliamentary control of finance, for the limitation of the duration of Parliament, or for an Irish Mutiny Bill, all objects which would seem to have been ready-made for such theories. Grattan's reference to natural

^{19/} B. Wilson, ed., The Works of the Honourable James Wilson, iii, 241.

^{23/} H.M.C., vol. 12, pp. 7, 27.

rights doctrines were not profound.^{20/} He did say that 'parliaments are neither eternal nor omnipotent; their powers are not original, but... to act within the frame of the constitution, not to alter, still less to destroy it.'^{21/} But, he goes on to discuss the Perpetual Mutiny Bill, and does not follow the logic of his remark in terms of imperial theory. In addition to this comment there is little more than his bare statement (used in connection with an argument from historical precedents) in his 'Rights of Ireland' speech, that 'nature has not given any one nation a right over another.'^{22/} Charlemont's mention of natural rights is equally scarce. The most that can be found in his voluminous writings are a few occasional flat statements written in passing, and without elaboration, such as his comment regarding an absentee landholder tax, that it was 'perhaps not altogether consistent with the strict idea of natural or constitutional liberty'^{23/} or his later remark in explaining

^{20/} Grattan's library contained a number of the 'standard' authorities on natural law frequently cited by the Americans, such as Bacon, Bolingbroke, Vattel, Locke, Sidney, Harrington and Montesquieu. See Catalogue of the Library of the Right Honourable Henry Grattan, M.P., sold by auction 6 November 1888 by John W. Sullivan, Dublin. Interestingly, no American work was listed in the library. Pamphlets apparently were not enumerated separately.

^{21/} H. Grattan, ed., Miscellaneous Works of the Right Honourable Henry Grattan, 21.

^{22/} D.O. Madden, ed., The Select Speeches of the Right Honourable Henry Grattan, 67. In his speech on Simple Repeal in July 1782 he mentioned in passing that 'the law of nations... binds Parliament'. Ibid, 96.

^{23/} H.M.C., rep. 12, app., x, 37.

his views on the Simple Repeal question in 1782, that 'we stood upon the firm ground of inalienable right'.^{24/} Flood does not seem to have mentioned natural rights. Even Lucas, who vociferously insisted, as early as 1760, that 'liberty is the political life of every subject',^{25/} aimed at near-term objects, such as securing the limited duration of Parliament. He noted that 'the power of Parliaments... must undoubtedly be confined to these fundamental principles of its institution',^{26/} but he did not follow the logic of this thought to any coherent theory of imperial relationship. There is no mention of any natural rights principles in Baratariana.^{27/} Although the emotional Letters of Owen Roe O'Nial^{28/} contain occasional phrases such as 'rights unalienable in their nature' and 'more than the God of Nature demands for Himself' there is no considered elaboration of any theory along these lines. In the letters of

Guatimozin and Causidus on the trade restrictions there are authoritative than regal grants or parliamentary decrees... The legislature of one part of the empire has no right to destroy the power of any other, much less to affect

^{24/} Ibid, 62.

^{25/} C. Lucas, Seasonable Advice to the Electors at the ensuing General Election, etc., (London, Dublin 1768), 17. Part I was first published in November, 1760.

^{26/} C. Lucas, The Rights and Privileges of Parlements, (Third Edition, Dublin 1770), 6.

^{27/} Baratariana, A Select Collection of Fugitive Pieces published during the Administration of Lord Townshend in Ireland, (Second Edition - Dublin 1773).

^{28/} Letters of Owen Roe O'Nial to the Men of Ireland, (Dublin 1779). Also published in FJ, xvii, nos. 17, 25, 27, 29, 64, 82, 84-5, 100, 102-4, 112, 114, 129, 131, from 2 Oct. 1779 to 24 June 1780.

^{29/} Letter from 'Nivernous Fidele', 23, 211, 145, 20 July 1775.

two comments touching on natural rights doctrines, but these passages are subsidiary to the historical and practical considerations of the trade problem, and the writers' advocacy of a non-importation agreement:

... the imperial sovereignty of any one kingdom over another de jure is direct nonsense...If a nation consents to be governed it must be under terms stipulated...no race of men can alienate, by any act of theirs, the liberty of their posterity, and...the delegation or transfer of power must be for the advantages of the governed. 29/

... all and every part, acknowledging equally its sovereign legislative power, are entitled equally to the good resulting from that power: I say to the good, because a sovereign legislative power to do other than good, that is, a sovereign legislative right to do wrong, is an absurdity not to be confessed in this century. 30/

Snatches of the imperial theory based on natural law, as enunciated by the Americans, are encountered in a few isolated comments, but the various writers go off at other tangents, and none combined the elements into a considered exposition of constitutional doctrine:

There is a charter of liberty more ancient and authoritative than regal grants or parliamentary decrees... The legislature of one part of the empire has no right to usurp or destroy the power of any other, much less to effect a supremacy over all the rest. 31/

The King of Great Britain and his Privy Council in England, his Governor, Privy Council and House of Assembly in the Colonies form and constitute the supreme governing power in America. This being the true, ancient and allowed constitution of the Colonies no other power under heaven can justly and legally presume to rule, govern or internally direct measures thence... 32/

29/ The Letters of Gautimozin on the Affairs of Ireland, (Dublin 1779), 4.

30/ Ibid, 64.

31/ Letter 'To Dr. Saml. Johnson' from 'Tyranny', FJ, xii, 128, 20 June 1775.

32/ Letter from 'Hibernicus Fidelis', FJ, xii, 145, 29 July 1775.

... the end of all government being confessedly the happiness of the people, all legislative supremacy incompatible with this would seem to be unconstitutional and arbitrary... To speak of an unlimited supremacy in the legislature in our free state is the language of despotism. 33/

Every man, conversant in constitutional matters, knows that acts of parliament plainly repugnant to natural justice have always been adjudged nullities in courts of justice... where, then, is the omnipotence of parliament? 34/

The law of nations never intended that one nation should give laws to another, but that each should have a legislature to regulate its respective people, without presuming to extend its jurisdiction beyond the limits which nature gave the soil... the nations, aggregately considered, must conform to the laws of nations, and to the laws of nature. With the latter lies the final appeal, and before its throne all laws must bow. 35/

The only fully fledged Irish exposition of the natural rights doctrine is in the pamphlet by Charles Francis Sheridan, Observations on the Doctrine Laid Down by Sir William

Blackstone. (The place of this pamphlet in the pro-

independence literature is open to considerable question

because of the apparent radical change in Sheridan's opinions in the next few years.)^{36/}

Sheridan's pamphlet could be substituted almost verbatim for any of dozens of American treatises, and it sounds like an echo of James Wilson's

famous pamphlet on the authority of the British Parliament. 37/

33/ Letter II from 'Amicus Americanus', FJ, xliii, 133, 29 June 1776.

34/ An Answer to a Pamphlet intituled Previous Promises inconsistent with a free Parliament, (Dublin 1760), 8

35/ Answer to a Pamphlet written by C.F. Sheridan Esq. entitled etc., (Dublin, 1782), 32.

36/ See Chapter 10 below.

37/ Wilson, Works, op. cit.

41/ Sheridan, Observations, 63.

Its contents demonstrate clearly the type of extensive and considered constitutional theory evolved from natural rights that is not found elsewhere in the Irish literature:

There are rights derived by mankind from God and Nature... The principal aim of society is to protect individuals in the enjoyment of those rights, vested in them by the immutable laws of nature...it follows...that the power of the government...can never extend itself to the infringement of those inherent rights, and...that all the power vested in the government is delegated to them by the society, and that consequently, the government can be possessed of none of which the parties delegating were not previously possessed themselves. 38/

...the Parliament of Great Britain are rightfully possessed of no power which can affect the natural rights of mankind, of which the members of the community in their individual capacity were not themselves, previous to any delegation of their power, already justly possessed...Now as no one individual possesses of right a power to invade the natural rights of another individual, neither can a number of individuals, or other community, however considerable, possess of right a power to invade the natural rights of another set of individuals or other community however inferior. If no community therefore can, of right, have power over another, neither can the government of one community over that of another. For as the government derives all its powers from the community which established it, it cannot be possessed of more than that community had to give. 39/

... the Parliament of Great Britain cannot of right exercise any act of authority over the people of other communities, who have not entrusted them with any power, but have on the contrary delegated their power to trustees of their own choosing. 40/

... the unity of the British Empire [means]...that all its constituent parts should with respect to foreign powers act as one state. 41/

38/ Charles Francis Sheridan, Observations on the Doctrine Laid Down by Sir William Blackstone respecting the extent of the Power of the British Parliament, particularly with relation to Ireland, (Dublin 1779), 33.

39/ Ibid, pp. 45-6.

40/ Ibid, 61.

41/ Sheridan, Observations, 63.

Only two repudiations of natural rights doctrines occur in the Irish literature. A reply to Lucas in 1761 flatly denied the basis of this doctrine: 'The first principle from which all this whole train of silly consequences is deduced, viz., that all power is derived from the people, is absolutely false, false in theory and false in fact'.^{42/} A later writer examining the relations between Great Britain and her colonies concluded that:

There must be a power lodged somewhere, from whom those natural rights must impartially flow; and whatever, or wherever that power is, it must have a controlling influence in every corner of the empire; consequently something must be left to the integrity, prudence and wisdom of every government to regulate the natural rights and liberties of those who live under its protection...and if it is necessary that this supremacy must be found somewhere, and it is not to be found in the Irish Parliament, the obvious consequence is that it must be lodged in the English, who may constitutionally bind the whole empire. ^{43/}

In view of the deeply ingrained nature of the natural rights concept in the social heritage of the era, and of the previously described evidence that the American theories were abundantly available to the Irish,^{44/} the lack of natural rights doctrine in the Irish constitutional theory of that time is not as easily explained as might appear.

42/ The Question About Septennial or Frequent New Parliaments Impartially Examined in Two Letters to Charles Lucas, Esq. M.D., (Dublin 1761), 27.

43/ A Candid Display of the Reciprocal Conduct of Great Britain and her Colonies from the Origin of the Present Contest to the Claim of Independency with a seasonable memento to the ruling power of Great Britain and Ireland, (Dublin 1780), pp. 32-33.

44/ See pages 18-23 above.

Although there was a sharp political cleavage in the Ascendancy between the patriot group and the supporters of the Administration, there was, as mentioned earlier, a pervasive influence of British attitudes among the Anglo-Irish that may well have been more fundamental than the split on political issues. Deep-rooted feudal and aristocratic traditions and nearly a century's political evolution had led in Britain to a view of politics as a mundane and selfish matter. The arrangement of British political life did not revolve around the concept of natural rights. Thus, reflecting British attitudes to a perceptible degree, constitutional theories of natural law did not predominate in Ireland, and were treated apathetically by Irish spokesmen.

In addition, an obvious cause of hesitancy was the minority position of the whole Ascendancy. It would be all well and good to elaborate a natural rights argument to negative the supremacy of the British Parliament, but the inexorable domestic conclusion of this theory would have been to admit great numbers of other Irishmen to participation in the political life of the country. Extension of the franchise on any ground satisfactory to validate this doctrine would inevitably have reduced the Ascendancy to a political minority. To most of the Ascendancy, such a development would have had a disastrous consequence, the rise of the Catholic majority to political power, and to

ultimate dominance. Aside from legitimate differences in religious doctrines, the members of the Ascendancy feared for the very foundation of their position, the confiscated lands, which it was alleged the Catholics would seek to regain if they were restored to power. The Attorney General and pro-Administration speakers used this argument with good effect in the Irish House of Commons to defeat Grattan's first attempt (1780) to secure a Declaration of Irish Rights.^{45/} On the question of doctrine itself, it would also have been hard to reconcile the Penal Laws with a philosophy enshrining reasonableness and equitable treatment for all men as God **given** rights.

Charlemont, for instance, although he favoured relaxation of the Penal Laws, was outspokenly against admitting the Catholics to any measure of political power.^{46/} He voted against the relatively mild Catholic Relief Bill of 1778,^{47/} and even in 1782 he felt that 'the House seems to be running mad on the subject of Popery'.^{48/} In contrast

^{45/} Debates of the House of Commons on a Motion, 8, 20. Attorney General Scott used it again on Grattan's second motion (22 Feb., 1782): '...it will shake all the property in the nation'. The Parliamentary Register, i, 271.

^{46/} Charlemont's grandfather took part in the revolution of 1688, was visited with attainder and sequestration by the Parliament of James II, was restored to his honours and possessions by William, from whom he received several promotions. See James Willis, ed., Lives of Illustrious and Distinguished Irishmen, v, 158.

^{47/} FJ, xvi, 154, 15 August 1778.

^{48/} T. Rodd, ed., Original Letters principally from Lord Charlemont, The Rt. Hon. Edmund Burke, William Pitt, Earl of Chatham and many other distinguished Noblemen and Gentlemen to the Rt. Hon. Henry Flood, 108.

to the absence of natural rights doctrines, his views on the subject of Catholic relief were set forth at some length in his works. Aside from exemplifying his views on the Catholic question, the following also portrays the substantial similarity of many Anglo-Irish and British attitudes; note the identification of the Catholic cause with that of France and Great Britain's other continental enemies.

Toleration has ever been with me a predominant principle...In a country unfortunately circumstanced like Ireland, where the many are to be governed by the few, where a rooted antipathy has long subsisted between the parties governing and governed, grounded on mutual injuries and nourished by antiquated and abortive claims on the one side and on the other by a perpetual dread that these claims might one day be successfully asserted--where the great mass of the people profess a religion perfectly distinct and even averse from that by law established, and not in its principles and tenets hostile to civil liberty, but intimately connected with the claims above mentioned, and from its identity with that of the surrounding nations, likely on every struggle to be protected by them from motives both religious and political--in a country, I say, so circumstanced, there are two points which never can with safety be ceded by the governing few; namely, the free and uncontrolled use of arms, and a share in the legislature. 49/

Flood was also determinedly opposed to Catholic emancipation, and seemed to give any ground on this subject very grudgingly. On the occasion of the discussion of the Catholic Relief Bill (20 February 1782), he asked, 'Can a Protestant constitution survive?...though we wish to extend toleration to Roman Catholics we do not wish to shake the government.'^{50/} Writing to Charlemont on the same subject,

49/ H.M.C., rep. 12, app., x, 47.

50/ Parliamentary Register, i, 255.

he stated, 'I am frightened about the Popery business.'^{51/}
Ogle, one of Grattan's supporters, wanted to add to the
concession in the 1778 Catholic Relief Bill the words
'consistent with the safety of the State and the Protestant
religion.'^{52/} In earlier days, Lucas was ferocious in his
defence of the Established Church, and was violently opposed
to any relaxation of Catholic disabilities.

Although anti-Catholic expressions diminished in the
years approaching 1782, there was never any dearth of these
sentiments. Even profusely loyal sentiments by Catholic
spokesmen invariably called forth a storm of strongly anti-
Catholic letters in the Freeman's Journal--in 1780 as well
as 1775 and 1766.^{53/} Catholic relief legislation also
caused strenuous opposition, particularly in 1778, when

^{51/} Flood to Charlemont, 7 Jan. 1782, H.M.C., rep. 12, app.,
x; W. Flood, ed., Memoirs of the Life and Correspondence
of the Right Honourable Henry Flood, M.P., 145.

^{52/} FJ, xv, 119, 26 May 1778.

^{53/} FJ, xvii, 87-91, 14-23 March 1780, and 97-8, 6-8 April
1780 for Letter from famous Catholic spokesman, Rev.
Arthur O'Leary, counselling to the Catholics of Ireland
loyalty in the face of threatened French invasion, and
the anti-Catholic letters prompted thereby. FJ, xii,
156-8, 24-9 Aug. 1775 for letters strongly opposed to
arming Catholics and denouncing the bounties for Catholic
enlistments offered by the Catholic Lord Kenmare; and,
on the same subject, a letter from 'Prudens', FJ, xv, 58,
3 Jan. 1778. FJ, iv, 30, 16 Dec. 1766, and 45, 7 Feb.
1767 for letters opposing the moderate pro-Catholic
pamphlet by Nicolas Lord Viscount Taaffe, Observations
on the State of Ireland from the Settlement in 1691 to
the Present Time, (2nd ed., Dublin, 1766). See also the
scurrilous 'Fees of the Pope's Chancery' in FJ, iv, 13-4,
18-21 Oct. 1766.

strong letters appeared in the Freeman's Journal for months;^{54/} the Quebec Bill produced the publication of a 'Solemn League and Covenant against the Quebec Bill' and a declaration that '...the passing of the Quebec Bill speaks the language of tyranny and slavery, as fully as if a royal proclamation had been made to that purpose.'^{55/} Expectations of a decline in Catholic numbers and influence were offered as a reason for septennial parliaments in the 1760s,^{56/} and for an augmentation of the army in Ireland in 1768,^{57/} and a patriot pamphleteer of the 1757 dispute even cited the

^{54/} For the 1778 Bill see FJ from March to June, 1778 (xv, 94-129 passim). A report of the House of Commons debate appeared in No. 129, 18 June 1778. For an earlier Relief Bill see FJ, xi, 56, 1 January 1776, and following numbers during January, 1776.

^{55/} FJ, xii, 1-2, 27-30 Aug. 1774. It is not clear from the newspaper whether these were American or Irish views; their publication in Ireland is the important point, as indicative of Irish feelings. See also letter from 'A Grazier', FJ, xiv, 43, 30 Nov. 1776: '...the Canada Act was contrary and repugnant to every principle both of our civil and religious constitution, pregnant with ruin and destruction to the whole empire; for undoubtedly the same authority that can establish popery, slavery and arbitrary power over one-half of America, may with equal right fix it in the other half.'

^{56/} Alexander McAuley, Septennial Parliaments Vindicated, humbly addressed to his Excellency the Earl of Hertford, (2nd ed., Dublin, 1766), 12, 16; A Letter to the Right Honourable J--- P----- Speaker of the House of Commons in Ireland, (London, Dublin, 1767), 22; Resolution of the Master, Warders, and Brethren of the Corporation of Carpenters, Millers, Masons, Hellers, Turners and Plumbers of the City of Dublin, FJ, iv, 88, 7 July 1767; Resolution of the Merchants, Traders and Citizens of Dublin (March 1782), in W.W. Seward, ed., Collectanea Politica, i, 39.

^{57/} Mark Noble, Reasons for an Augmentation of the Army on the Establishment offered to the Consideration of the Public, (Dublin, 1768), 12.

need to protect the Protestant religion as a justification for the continuance of Poynings' Law, despite the latter's inhibiting affect on Irish Parliamentary independence.^{58/}

Burke, writing to O'Hara in 1770, praised Lord Kenmare as 'judicious and humane...public spirited...well cultivated', but immediately added 'but he is a papist and you know that such a man cannot and ought not to be endured in your country'.^{59/}

As late as the debate on the Catholic Relief Bill of 1782, members of the House of Commons, while wishing to 'grant some indulgence' to the Catholics, forcefully opposed 'a single dash of the pen [which] abolished all the restraints that the wisdom of our ancestors had laid upon that people'.^{60/}

Strongly anti-Catholic pamphlets still appeared in 1782.^{61/}

Having made due allowance for these influences, it is still not easy to account satisfactorily, or at least completely, for the discrepancy in Irish and American expositions of the natural rights philosophy.

58/ Remarks Upon Poynings' Law and the Manner of passing Bills in the P-----t of I-----d. by a Gentleman of Ireland, (Dublin 1757), 11.

59/ Ross J.S. Hoffman, ed., Edmund Burke, New York Agent, with his Letters to the New York Assembly and intimate correspondence with Charles O'Hara 1761-1776, 473.

60/ Speech of Hon. John Butler, Parliamentary Register, i, 199. See also speeches of Mr. St. George, p.199, and Mr. Rowley, p.233.

61/ The Dangers of Popery: A Dream verified by Recent Facts and Authentic Documents in a Letter to a Friend, (Dublin 1782).

64/ Relative to the Present State of Ireland, (Dublin 1757), 83. See also p. 15.

Opposition to Catholic power does not entirely explain the situation. The Catholic question was not a violent one at that time; it was generally approached quite calmly and reasonably.

A growing volume of opinion urged toleration of the Catholics. The occasions which called forth anti-Catholic views also produced counter arguments on behalf of assisting the Catholics.^{62/} In 1772, Hercules Langrishe, an important member of the patriot group at that time, supported a considerable measure of concession to Catholics in taking leases.^{63/} As early as 1757 a pamphlet recommended granting the Catholics longer tenure and greater opportunities in the cultivation of land, and interestingly enough, pointed out the logical relation of Catholic freedoms to a consistent natural rights philosophy: 'The Protestant interest can gain nothing by taxing the votaries of any innoxious religious tenets with the privation of liberty and insecurity to property...perpetuity of servitude is contrary to the nature of things, in all free governments.'^{64/} The pertinence of this question to the pervasive natural law concept was again pointed up by a newspaper correspondent in 1778: 'I have long considered the Roman Catholics of this

62/ See generally citations in footnotes 53/ and 54/

63/ The Substance of a Speech Made by H----- L-----, Esq. in the Debate on the Bill for Enabling Papists to take Building Leases, (Dublin 1772), 21.

64/ Maxims Relative to the Present State of Ireland, (Dublin 1757), 23. See also p. 15.

kingdom as a most pitiable people, to whom we refuse that freedom and indulgence which we claim for ourselves, and which we plead as the inalienable portion of every other body of men under the sun.^{65/}

By 1781-2 there was widespread sentiment for a substantial emancipation of the Catholics in economic matters. Support of Catholic rights carried over into the extremely influential Volunteers, and was expressed, apparently quite sincerely, in resolution after resolution by the individual corps,^{66/} and in the ringing resolves of the Dungannon Convention in 1782.^{67/} A wide degree of Catholic emancipation seems to have been advocated by the Presbyterians, not only as a measure of self-interest, but also on the grounds of intellectual conviction.^{68/} In the debates on the Catholic

^{65/} Letter from 'Hibernicus', FJ, xv, 81, 26 February 1778. See also further letters from the same correspondent in nos. 85 and 87, 7 and 12 March 1778.

^{66/} Wilson, Resolutions of the Volunteers: See resolutions of following meetings at pages indicated: Birr Meeting (20 Mar. 1782), 88; Enniscorthy Light Dragoons (23 Mar. 1782), 98; Bandon Meeting (25 Mar. 1782), 108; Grand Jury of County Cork (Spring Assizes, 1782), 139; Moycashel Association (2 Apr. 1782), 145. See also Rev. Patrick Rogers, The Irish Volunteers and Catholic Emancipation, 1778-1793.

^{67/} For texts, see H. Grattan, ed., Memoirs of the Life and Times of the Right Honourable Henry Grattan, ii, 204.

^{68/} Evidence on this point is also meagre. The best example is the statement of the 'Dissenting Congregation of Clough, County Down', (28 April 1782), Wilson, Resolutions of the Volunteers, 277: 'Sensible of the rights of men from what we feel in ourselves, and animated by the purest sentiments of liberty and benevolence, we cannot help expressing our satisfaction at the recent progress of religious toleration in the christian world...we sincerely congratulate our fellow citizens in this kingdom, in particular, upon the extensive unanimity, the firmness, and the moderate and generous spirit of their late resolves.'

Relief Bill of 1782 no member flatly opposed granting the Catholics at least 'some indulgence' and speaker after speaker expressed pro-Catholic sentiments;^{69/} two prominent members even ventured to dismiss Catholic emancipation as a threat to the Ascendancy's properties.^{70/} The introduction of this Bill brought a series of letters to the Freeman's Journal urging Catholic toleration.^{71/} Even Charlemont acknowledged that the exclusion of Catholics from political power was not completely just, even though he thought it necessary on grounds of expediency.^{72/} The most prominent patriot of all, Grattan, and a number of the other patriot leaders were unreservedly in favor of full Catholic emancipation; Grattan expressed himself on this point repeatedly, and in clear cut terms: 'I conceived it to be a sacred truth...that the Irish Protestant should never be free until the Irish Catholic ceased to be a slave.'^{73/} However, the only comment of this period that clearly linked Catholic emancipation to natural rights was a letter rebuking the Gentlemen of County Trim

^{69/} Parliamentary Register, i, 206, 209, 244-265.

^{70/} Provost Hely Hutchinson and Mr. Ogle, Parliamentary Register, i, 273, 276.

^{71/} FJ, xix, 68, & 70, 26 and 31 January 1782.

^{72/} H.M.C., rep. 12, app., x, pp. 18-9, 43, 46.

^{73/} Letter to the Independent Dublin Volunteers, Dec., 1782. Quoted in Grattan, Memoirs, iii, 23. See also Grattan's speech on the Catholic Relief Bill, 20 Feb., 1782, Ibid, ii, 197. Grattan sought more an 'aristocracy' than a 'democracy'. It is not clear that he realized the logical consequences, in terms of distribution of political power, of the measures he advocated toward the Catholics.

who had resolved (3 July 1781) that it was improper to associate in arms with Roman Catholic volunteers:

Could it have been imagined...that any set of men could suppose that laws made for particular and temporary purposes should supersede the operation of the general laws of nature and of nations...Away with such narrow-minded policy--worthy the conception of unmanly prejudice--worthy those understandings that were never enlightened with the doctrines of a Locke or Montesquieu. 74/

In addition, America, of course, was not free of a large measure of religious-political disability and intolerance. 75/

The negro slaves, numbering over one-fifth the population of the Colonies in 1760, 76/ had no rights whatever, and it

apparently never occurred to most American writers that the

negroes were or should be included in the phrase 'all men

are created equal'. There were also still considerable

numbers of indentured servants who had limited rights.

There were deep class and sectional differences in the varied

colonial social and economic patterns; although the situation

varied from colony to colony, none of the thirteen was really

democratic in political or social structure, much less

'dedicated to the proposition that all men are created equal.'

(There were really two American revolutions at once; an

74/ Robert Houlton, A Selection of Political Letters which appeared during the Administrations of the Earls of Buckinghamshire and Carlisle, under the signatures of Junius-Brutus, Hampden, The Constitution Watchman, and Lucius Hibernicus, (Dublin 1782), 55.

75/ Although the Irish Patriots seem to have idealized conditions in America. In 1772 Langrishe referred to 'that pious spirit of toleration which unites, and strengthens and populates the colonies of America'. Substance of a Speech, 15.

76/ Rossiter, Seedtime of Republic, 151.

internal quarrel, partly class and partly sectional, cut athwart the larger struggle against Great Britain). Conditions in Massachusetts Bay, for instance, were hardly consonant with the full implications of the natural rights doctrines which this very colony was the leader in putting forth to contest British authority. The reaction to the Quebec Act highlighted the widespread and active antipathy to Catholicism in America. Samuel Adams addressed the Mohawk Indians: 'Brothers, They have made a law to establish the religion of the Pope in Canada'.^{77/} The Suffolk County Resolves, drawn up at Dedham, Massachusetts Bay, on 6 September 1774, denounced the Act as 'dangerous to an extreme degree to the protestant religion and to the civil rights and liberties of all America.'^{78/} (These resolutions were re-printed on the front page of the Freeman's Journal of 10 November 1774.)^{79/} The anti-Catholic sentiment was pushed to such limits as to label General Gage 'a Papist in politicks'^{80/} and Lord North 'a Roman Catholick'.^{81/}

Englishmen.

^{77/} H.A. Cushing, ed., Writings of Samuel Adams, iii, 211.

^{78/} American Archives, 4th Series, i, pp. 777-8. See also Father Charles Metzger, The Quebec Act, a Primary Cause of the American Revolution.

^{79/} xii, 33. An anti-Catholic letter, opposing the Quebec Act, from Alexandria, Virginia, dated 2 Aug. 1774, was re-published in FJ, xii, 9, 15 Sept. 1774.

^{80/} Pennsylvania Journal, 17 August 1774.

^{81/} Anson County (North Carolina) Committee of Safety, American Archives, i, 1230.

^{82/} T.W. Moody, 'The Political Ideas of the United Irishmen', Ireland Today, ii, 1, pp. 15-25.

In sum, it must be said that fear of Catholicism and the aspirations of the Presbyterians and Catholics. The disturbance of the politico-economic order in Ireland does not sufficiently answer the problem. The series of local issues with which the Irish were primarily concerned, and the almost crushing obstacle of a cynical administration and its bribed Parliament, might account for a failure to crystalize larger philosophical themes. However, natural rights doctrines would seem to have been the ideal weapon for these very issues--corruption, popular financial control, representative and limited parliaments, habeas corpus, mutiny bill, etc. Precisely these disputes had called forth natural rights doctrines in Great Britain during the previous century. Use of this philosophy would also have freed the Irish from many embarrassments--far worse than those of the Americans--in arguments regarding historical precedents or commercial restrictions. It would also seem to have offered a natural complement to the contentions based on the concept of Ireland as a separate nation and its heritage of the rights of Englishmen.

Although out of the period of time covered by this thesis, it should be noted that a philosophy of natural rights did come to a position of importance in the credo of the United Irishmen in the 1790s.^{82/} In many ways that movement was a reaction to the failure of Grattan's Parliament to provide for more representative government and to satisfy

^{82/} T.W. Moody, 'The Political Ideas of the United Irishmen', Ireland Today, ii, 1, pp. 15-25.

the aspirations of the Presbyterians and Catholics. The influence of natural rights doctrines from the French Revolution was also much stronger in the minds of the lower class Irishmen who were caught up in the United Irishmen movement and the Rebellion of 1798.

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There is little discussion of the possibility of federal representation in an imperial parliament which was suggested by the case of the American colonies, is not mentioned in connection with the American problem. There is only one suggestion for an imperial parliament, the only pamphlet, while mentioning Ireland, does not deal directly with the American problem. There are several objections to the proposed Irish parliament for that it would tend to prevent English Irishmen from serving the interests of Ireland in the British Parliament. However, he was

1/ Renovation without Violence, Not Feasible, (Dublin 1779) pp. 9-10.

2/ M. Arnold, ed., Letters, Speeches and Tracts on Irish Affairs by Edmund Burke, pp. 75-6. Burke offered an unwitting argument against Irishmen in England representing Irish interests there when he said that such men could not simultaneously serve party, and not Ireland. EMC, rep. 12, app. x, 15.

There is perhaps more on representation in the Irish material than on any other topic. However, only a portion of it is directly a part of imperial constitutional theory in the sense that it deals with the representation of Irish interests in the organisation of the Empire. The great majority of the comments on this general subject relate to the composition of the Irish legislature itself, rather than to the relationship between it and the governing of the Empire.

There is little discussion of any form of Irish representation in an imperial legislative body. The possibility of federal representation in the British Parliament, which was suggested in the case of the distant American colonies, is not mentioned in connection with Ireland. There is only one suggestion for an imperial parliament, but this pamphlet, while mentioning Ireland, deals almost exclusively with the American problem.^{1/} Burke mentioned among his objections to the proposed Irish Absentee Tax that it would tend to prevent eminent Irishmen from serving the interests of Ireland in the British Parliament.^{2/} However, he was

^{1/} Renovation without Violence Yet Possible, (Dublin 1779) pp. 9-10.

^{2/} M. Arnold, ed., Letters, Speeches and Tracts on Irish Affairs by Edmund Burke, pp. 75-6. Charlemont offered an unwitting argument against Irishmen in England representing Irish interests there when he said that such men could not simultaneously serve party, self and Ireland. HMC, rep. 12, app. x, 15.

clearly thinking of Irishmen participating in English politics, rather than entering Parliament specifically to advocate Irish interests. Burke habitually viewed the question of Irish representation in this light. In fact, his omission of Ireland, his native land, from the dominion theory of imperial organization, of which he was a leading architect, is particularly glaring.

No middle ground is entertained in the Irish material between the independent powers of the Irish Parliament and the complete union of the kingdoms under an amalgamated parliament sitting in England.

The independence of the Irish Parliament is asserted over and over again. The Anglo-Irish were proud of the Irish Parliament's long history and felt it to be a good and sufficient body for the country's government. A correspondent in 1780 wrote of 'a loyal, brave and enduring people who aim their views no farther than to restore the great organ of their happiness, their legislature, to its ancient form and standard'.^{3/} Grattan proclaimed that 'Ireland has another title in support of her liberty, a Parliament of her own [the] competency [of which] stands on the same base within this realm as that of the English Parliament within the realm of Great Britain.'^{4/} The Volunteers echo him with the

^{3/} Letter entitled 'Considerations on what the Irish Parliament owes to itself and to the Nation at this Juncture, Freeman's Journal, xvii, 58, 6 January 1780.

^{4/} D.O. Madden, ed., The Select Speeches of the Rt. Hon. Henry Grattan, 72.

resolution that 'the people of Ireland are a free people, with a parliament of their own, to whose authority alone they are subject.'^{5/} Another Volunteer resolution in vowing 'that his Majesty's kingdom of Ireland is a distinct kingdom, giving a distinct title to an Imperial crown, with a parliament of its own, the sole legislator of the state'^{6/} echoes a protest in the Irish House of Lords almost twenty years earlier, that 'Ireland is a separate Kingdom and, as such, has....a distinct and separate legislative power.'^{7/} Flood used very similar words in the House of Commons in 1781.^{8/} Throughout the 1780-1782 period there recurred the rolling resolve that 'the King, Lords and Commons of Ireland are the only power to make laws to bind Ireland.'^{9/} Writers

- ^{5/} Meeting of Glanmire Union (28 March 1782) in C.H.Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries, Etc., of Ireland, 121. The Corps of Independent Dublin Volunteers passed an identical resolution, Ibid, 31. Also: Meeting at Large of the County of Cavan (13 March 1782), Ibid, 52; County Cork Meeting (15 April 1782), Ibid, 217; Letter 'To the People of Ireland' from 'Valerius', FJ, xii, 127, 17 June 1775.
- ^{6/} Union Regiment (8 April 1782), Ibid, 184.
- ^{7/} A Collection of the Protests of the Lords of Ireland from 1634 to 1771, (Dublin 1772), 89. The resolution from which the quotation is taken was dated November 1765.
- ^{8/} The Parliamentary Register, i, 84. 'Ireland is an independent kingdom; she has a completely free and supreme legislature of her own.' Debate on the Sugar Tax, 21 November, 1781.
- ^{9/} Freeholders and principal inhabitants of the parish of Aughinloe, County Derry (3 May 1782), in H.Grattan, ed., Miscellaneous Works of the Rt. Hon. Henry Grattan, 191; Edgworthstown Battalion, County Longford (14 April 1782), in H. Grattan, ed., Memoirs of the Life and Times of the Rt. Hon. Henry Grattan, ii, 258; Travers Hartley, M.P. to the Sheriffs, Freemen and Freeholders of the City of Dublin (March 1782), in W.W. Seward, ed., Collectanea Politica, i, 203; Freeholders of County Dublin (7 March 1780), Hibernian Journal, x, 33, 15 March 1780; John Dunn, Thoughtson Newspapers and a Free Trade, (Dublin 1780), 28; Francis Dobbs, A Letter to the Rt. Hon. Lord North on his Propositions in Favour of Ireland, (Dublin 1780), 8.

over the years particularly denounced Poyning's Law for illegally interposing the Irish Privy Council between the Parliament and King of Ireland.^{10/} Flood remarked that 'it certainly seems a little extraordinary that there should be two legislatures to make the same laws.'^{11/} One pamphleteer even insisted that Ireland had 'no right' to be bound by any British law.^{12/} (Put to the test, however, the House of Commons failed to pass Grattan's declaration of Irish rights in April 1780, largely on the ground that it would be 'inexpedient'. Even Dennis Daly, one of Grattan's most consistent supporters, felt that it would be 'ungrateful' to offer 'this wanton challenge to England' and 'dangerous to wound the pride of Great Britain.'^{13/})

^{10/} Remarks upon Poyning's Law and the Manner of passing Bills in the P-----t of I-----d, (Dublin 1757), Passim; Baratariana, A Select Collection of Fugitive Political Pieces published during the Administration of Lord Townshend in Ireland, (Dublin 1773 - 2nd edition), 52; Plain Reasons for New Modelling Poyning's Law in such a manner as to assert the Ancient Rights of the Two Houses of Parliament without entrenching on the King's Prerogative, (Dublin 1780), 8; Considerations on the Intended Modifications of Poyning's Law (London 1780), 14, 16, 17, 18; Parliamentary Register, i, 167.

^{11/} Debates of the House of Commons of Ireland on a Motion whether the King's most excellent majesty, and the Lords and Commons of Ireland are the only Power competent to bind or enact laws in this kingdom, (Dublin 1780), 22.

^{12/} Answer to a Pamphlet written by C.F. Sheridan, Esq., entitled A Review of the Three Great National Questions relative to a Declaration of Right, Poyning's Law, and the Mutiny Bill, (Dublin 1782), 32.

^{13/} H. Grattan, ed., The Speeches of the Rt.Hon. Henry Grattan, i, 53. The debate on this motion was also reported at length in FJ, xvii, 104, 22 April 1780.

^{18/} Lord Lussan to Pery, Speaker of Irish House of Commons, 21 August 1778, in HMC, rep.8, app., i, 202b. See also H. utterfield, (George III, Lord North and the People, 1778-80, pp. 104-7.

Supporting as they did the independence of the Irish Parliament, the patriot group also strongly opposed the suggestion to unite the two kingdoms under a single amalgamated parliament sitting in England. During the early years of the century the Irish had hinted that they wanted union with Great Britain, but by the time of the pro-independence struggle the patriots strongly opposed this suggestion. Several English commentators in Ireland suggested that union should be the answer to the problem of Anglo-Irish relations,^{14/} but only a few Irish writers specifically supported this idea: a pamphleteer in 1755,^{15/} a letter-writer in 1764,^{16/} and another pamphleteer in 1779.^{17/} In the latter year the British Government was thinking of a plan of 'incorporation'^{18/} but the Lord Lieutenant advised the Government 'let me earnestly recommend you not to utter the word Union in a whisper or to drop it from your pen. The

^{14/} Letter of Buckingham, Lord Lieutenant, to Sir Richard Heron, Chief Secretary (then in England), dated March 29, 1779. In the Heron Correspondence collection at the National Library of Ireland. (So far as I am aware, this letter is unpublished). Letter of Lord McCartney to Lord North, dated 8 January 1780, in the typescript collection of Lord McCartney's letters at the Public Record Office of Northern Ireland (Letter 7/41). Arthur Young, A Tour in Ireland, (Dublin 1780), ii, 193. T. Campbell, A Philosophical Survey of the South of Ireland, (London 1777), 362, 363.

^{15/} Policy and Justice: An Essay being a Proposal for Augmenting the Power and Wealth of Great Britain by uniting Ireland, (Dublin 1755).

^{16/} Letter from 'Anglico-Hibernicus', FJ, ii, 1, 1 Sept. 1764.

^{17/} The First Lines of Ireland's Interest in the Year One Thousand Seven Hundred and Eighty, (Dublin 1779), 57.

^{18/} Lord Lucan to Pery, Speaker of Irish House of Commons, 21 August 1779, in HMC, rep.8, app., i, 202b. See also H. Butterfield, George III, Lord North and the People, 1779-80, pp. 104-7.

present temper will not bear it.^{19/} In 1759 rumours of a legislative union provoked a furious riot in Dublin.^{20/} Opposition to union seemed to come from every hand. The electors of Dublin required their representatives to oppose it;^{21/} the Duke of Leinster spoke out against the idea;^{22/} the Letters of Guatimozin deprecate union;^{23/} letter writers and pamphleteers objected to it, sometimes in caustic language;^{24/} and even Connolly, a steady supporter of the Administration, seemed to find the failure of the union proposal to his liking.^{25/}

Another thought regarding imperial representation is mentioned briefly in the Irish material. This is the idea of 'virtual representation'--the contention that the interests

^{19/} Buckingham to Hillsborough, 2 January 1780, in HMC, Stopford-Sackville MSS, i, pp. 266-7. Young, Tour, ii, 193, and Campbell, Survey, 352, 359 also comment on the fierce Irish antipathy to union.

^{20/} W.E.H. Lecky, A History of Ireland in the 18th Century, i, 469; Francis Hardy, Memoirs of the Political and Private Life of James Caulfield, Earl of Charlemont, 55.

^{21/} FJ, xi, 35, 16 November 1773.

^{22/} Authentic Minutes of the Proceedings of a Very Respectable Assembly on the 20th of December 1779, (Dublin 1780), 72.

^{23/} The Letters of Guatimozin on the Affairs of Ireland, (Dublin 1779), 56.

^{24/} Third Letter 'On Patriotism' by 'Humphrey Search' in FJ, x, 101, 20 April 1773; Letter to the People of Ireland, (Dublin 1779), 62, 63.

^{25/} Authentic Minutes, 25.

of the outlying areas of the Empire, as those of the unrepresented industrial cities of Britain, were 'virtually represented' through the British Parliament's theoretic embodiment of the general will of the people.

The idea of 'virtual representation' is only mentioned a few times in the Irish material. None of the remarks deal with any possibility of virtual representation of Irish interests in the British Parliament, but rather, oppose the contention that the American colonies were so represented. Both Langrishe and Bushe in the pamphlets they wrote in 1769 on the British Empire took occasion to criticize the theory of virtual representation.^{26/} In 1775 Yelverton set it up as a 'straw man' for attack, as part of his justification of American armed resistance.^{27/} A newspaper correspondent summed up the contemptuous tone of the opposition to the idea of being 'virtually' represented: 'Surely no use should be made of what has been always esteemed a defect in the constitution?'^{28/} Virtual representation was a poor and embarrassing argument and was used only briefly against the

^{26/} Hercules Langrishe, Considerations on the Dependencies of Great Britain, (Third Edition, Dublin 1769), 7.

^{27/} FJ, xii, 41, 28 November 1775.

^{28/} Letter from 'A Friend of Liberty', FJ, xii, 80, 28 February 1775. Compare an American view that 'the argument that the Colonies are virtually represented in Parliament is rather an insult on our reason, than convincing our judgment...The unequal representation, in Great Britain has long been complained of as a grievance, and therefore ought not to be used as an argument against our liberty.' 'A letter from a Merchant in Philadelphia to his Correspondent in London' (19 June 1765), reprinted in FJ, ii, 104, 3 Sept. 1765.

Americans. It had been largely discredited before the Irish dispute waxed hot.^{29/} In addition, any arguments in this vein were liable to be peculiarly embarrassing to both sides of the Irish contest because of the minority position of the Ascendancy, and of the system of borough-holders, personal obligation, and bribery that made the Irish Parliament very poorly representative even of the Ascendancy.

The Irish comments regarding representation deal largely with domestic rather than imperial representation - with the character of the Irish Parliament itself. Effective control of the local legislature was the pre-requisite for any attempts to establish the Anglo-Irish position in the Empire. The two principal subjects under this heading were limited parliaments or frequent elections, and the responsibility of representatives to their constituents.

The Irish Parliament had sat throughout the entire reign of George II, some thirty-three years, and the constitutional question agitated during the 1760s by the developing patriot group was on behalf of parliaments of fixed and short duration. It was argued that representatives would be careful of their trust if 'called to an account' at the end of but a few years, through having to face an election.^{30/} Grattan was 'glad that

^{29/} The pamphlet most completely demolishing virtual representation was Daniel Dulany, Considerations on the Propriety of Imposing... Taxes in the British Colonies for the Purpose of Raising a Revenue by Act of Parliament, (2nd Edition, London 1766), pp. 9-10.

^{30/} FJ, i, 15, 29 October 1763; Letter from 'Pro Patria,' FJ, iii, 57, 22 March 1766; C. Lucas, Seasonable Advice to the Electors at the Ensuing General Election, (London and Dublin 1768), part ii, 3, 33; Seward, Collectanea Politica, i, 61; The Times addressed to the Virtuous and Spirited Freemen of Ireland, (Dublin, 1780), 43.

sink of prostitution, the Irish Parliament, is to be drained octennially. This will control it, if it cannot amend.'^{31/} Many arguments, some rather thin-spun, were adduced to demonstrate that a particular advantage of limited parliaments would be the increase of the Protestant religion.^{32/} Octennial parliaments were looked upon as the key to sweeping reform. County meetings throughout Ireland adopted resolutions in favour of limited parliaments.^{33/} Charlemont referred to the 'great and salutary law for limiting the duration of parliaments...that basis upon which the frame of our renovated constitution has been raised.'^{34/} A pamphleteer of 1766 offered septennial parliaments as a veritable cure-all for a breathtaking catalogue of aspirations and problems:

In a word; if constitutional freedom, redress of grievances, public economy, industry, husbandry, manufactures, wealth, population, subordination, loyalty and protestantism be national benefits; and if oligarchy, faction, oppression, capital offenders superior to control, universal corruption,

^{31/} Letter from Grattan to Mr. Broome (25 Feb. 1768), in Grattan, Memoirs, i, 127.

^{32/} C. Lucas, The Rights and Privileges of Parlements (3rd Edition - Dublin 1770), 22; Alexander McAuley, Septennial Parliaments Vindicated, humbly addressed to his Excellency The Earl of Hertford (2nd Edition - Dublin 1766), 12, 16; A Dialogue between an English Nobleman and a Gentleman of Middlesex on the Affairs of Ireland (reprinted from the London edition - Dublin 1762), 26; Resolution of the Sheriffs and Grand Jury of Dublin, FJ, v, 7, 26 September 1767; Resolution of the Master, Wardens and Brethren of the Corps of Carpenters, Millers, Masons, Hellers, Turners and Plumbers of the City of Dublin, FJ, iv, 88, 7 July 1767.

^{33/} Resolution of the Sheriffs and Grand Jury of Dublin, FJ, v, 7, 26 Sept. 1767; Sheriffs and Grand Jury of Co. Kilkenny, FJ, v, 2, 8 Sept. 1767. Other FJ issues for September 1767, passim. Merchants, Traders and Citizens of Dublin (March 1762), quoted in Seward, Collectanea Politica, i, 39.

^{34/} H.M.C., 12 rep., app., x, 24.

open contempt of the laws, lawgivers and courts of justice, endless misapplication of public money, pensions boundless, prostitution shameless, grievances innumerable without redress, sloth, idleness, beggary, barbarism, devastation, discontent, tumult, disaffection and popery be national evils; the Bill now depending, intended for a septennial limitation of parliaments in this Kingdom, ought to pass into a Law. 35/

The Irish obviously had their eyes on the British Parliament in their estimation of the efficacy of this reform.

The comment contained many references to British precedents and rights, and assertions such as that 'frequent and new parliaments are a fundamental part of the constitution.' 36/

The Octennial Parliament was a step forward, but, with the different conditions in Ireland, it was an illusory benefit.

So long as the executive possessed unfettered control of the pension lists and quasi-legislative functions by virtue of Poyning's Law it held a virtual stranglehold on any parliament,

short or long. Thus the struggle for a Parliament limited in point of time was almost meaningless. In fact, the

practical effect was to increase the value of the borough seats, and many members of the House of Lords blessed the reform. 37/

35/ McAuley, Septennial Parliaments Vindicated, 43.

36/ 'Of Short and Long Parliaments' in FJ, iii, 73, 17 May 1766; C. Lucas, The State of Ireland Laid Open to the View of His Majesty's Subjects, (London 1754), 62; C. Lucas in the House of Commons (13 October 1763), Sir James Caldwell, ed., Debates Relative to the Affairs of Ireland in the Years 1763 and 1764 (London 1766), 46; Lucas, Seasonable Advice, 21, 33; McAuley, Septennial Parliaments Vindicated, 24, 25; Baratariana, pp. 20-22; Seward, Collectanea Politica, i, 60.

37/ Campbell, Survey, 58; Hardy, Memoirs, 132.

The failure of limited parliaments to establish parliamentary responsibility to the electorate is reflected by the prominence given by the Volunteer movement to the assertion that 'as it is an undoubted right of free and independent electors to instruct their representatives so it is the duty of representatives faithfully to speak the sense of the people.'^{38/} This emphasis is the culmination of a theme that runs throughout the Irish comments of previous years. As early as 16 April 1757 the Patriot Club of the County of Antrim had joined in the toast 'May the freemen of Ireland ever exact their constitutional right of judging the conduct of their representatives.'^{39/} Flood voiced similar sentiments in the House of Commons in 1763;^{40/} Lucas was thanked in 1767 for 'reviving the almost exploded principle of the Members consulting with their constituents upon new and extraordinary emergencies';^{41/} and a pamphlet of the

^{38/} High Sheriff and Grand Jury of Co. Westmeath (4 March 1782) in Wilson, Resolutions of the Volunteers, 28; Connaught Volunteers (15 March 1782), *Ibid.*, 59; Co. Mayo Meeting (March 24 1782), *Ibid.*, 102; Bandon Meeting (25 March 1782), *Ibid.*, 108; City of Cork (16 April 1782), *Ibid.*, 173; Lawyer Corps (28 February 1781), *Ibid.*, 10; Freeholders and principal inhabitants of the parish of Aughinloe, Co. Londonderry (3 May 1782) in Grattan, Misc. Works, 199.

^{39/} Henry Joy, ed., Historical Collections relative to the Town of Belfast from the Earliest Period to the Union with Great Britain, (Belfast 1817), 100.

^{40/} Caldwell, Debates, 643.

^{41/} Masters, Wardens and Brethren of the Corps of Saddlers, Upholders and Coachmakers etc. or Guild of the blessed Virgin Mary of the City of Dublin to Dr. Lucas, FJ, iv, 88, 7 July 1767.

same year maintained that 'it is undoubtedly a point of natural justice that you, whose lives, liberties and properties depend on the debates of that body, should have a competent share in its appointment.'^{42/} A number of letters stressing the right of constituents to direct their representatives appeared in the Freeman's Journal in 1773 and 1774, including one tract entitled 'Of Obedience to Instructions.'^{43/} In 1775, James Wilson, a patriot Member of Parliament, offered his Belfast constituents an elaborate plan to obtain their views on every important legislative topic in order to guide his vote.^{44/} A pamphlet of 1780 wondered 'how can the people be said to be represented if laws contrary to their wishes are passed.'^{45/} Effective representation of the people is one of the few subjects on which direct Presbyterian comment is available:

The man who attempts to suppress the people's voice in public affairs, or who barter the more general welfare to private emolument, shall, hereafter, meet our warmest opposition; as we look upon a fair representation of the people as the best security of our constitutional rights, and are determined to co-operate with our fellow citizens in every measure which may tend to promote the independence of parliament. ^{46/}

^{42/} An Address to the Freeholders of Ireland, (Dublin 1767), 2.

^{43/} FJ, xi, 85, 12 February 1774; Letter from 'Fabricus' to Luke Gardiner, FJ, xi, 39, 25 November 1773; FJ, xi, 43, 4 December 1773.

^{44/} Joy, Historical Collections, 122.

^{45/} The Times addressed to the Virtuous and Spirited Freemen of Ireland, 36.

^{46/} The Dissenting Congregation of Clough, County Down (28 April 1782) in Wilson, Resolutions of the Volunteers, 277.

Corruption of the Irish Parliament was also attacked, although it was never possible to push through effective measures to release the legislature from this stranglehold held by the Administration. The Irish House of Commons actually passed a unanimous resolution against abuse of pensions in 1757,^{47/} and ten years later leave was given to bring in Heads of Bill for vacating the seat of any member accepting office, employment or pension from the Crown (although apparently nothing came of the Bill).^{48/} The Speaker of the House of Commons in presenting the Money Bill in 1772 to the Lord Lieutenant, expressed pointed doubts whether 'the Commons...could entertain any reasonable expectation of being able much longer to support the expense of the establishment.'^{49/} Volunteer resolutions also took occasion to attack this corruption, and one meeting condemned a catalogue of individuals on the pension list.^{50/} The resolution from Co. Galway exhibited the bitterness of the patriot adherents:

A seat in Parliament was never intended by our Constitution as an instrument of emolument to individuals, and... the representative who perverts it to such purpose...is

47/ A Letter from a Gentleman in the City to a Member of Parliament in the North of Ireland, (Dublin 1757), 7.

48/ FJ, v, 25, 28 November 1767.

49/ Seward, Collectanea Politica, i, 79.

50/ Baltinglass Meeting (20 March 1782) in Wilson, Resolutions of the Volunteers, 86; Co. Mayo Meeting (24 March 1782), Ibid, 102; Connaught Volunteers (15 March 1782), Ibid, 59. It was stated that between 1762 and 1783, inclusive, 33 barons, 16 viscounts and 24 earls had been added to the Irish peerage. See W.E.H. Lecky, Leaders of Public Opinion in Ireland, i, 69.

guilty of betraying the trust reposed in him by the people for their, not his benefit... the people who could tamely behold their suffrage made the tool of **private** avarice and ambition are still more criminal than the venal representatives, as they become the panderers without even the wages of prostitution...we daily see the mandate of the Minister supersede all conviction in debate... placed and pensioned Members of Parliament notoriously support in public measures which they condemn in private... the hirelings of corruption avow, and Government have exemplified... that to vote according to conscience amounts to a disqualification to hold any office in the service of our country. 51/

Considerable dissent, however, was voiced to the proposition that the representatives had to be bound by the wishes of their constituents. A pamphleteer in 1761 told Lucas that 'the first principle from which all this whole train of silly consequences is deduced, viz., that all power is derived from the people, is absolutely false, false in theory and false in fact.'^{52/} Charles O'Hara, an Administration supporter, wrote to his friend Burke, that the Octennial Act had 'transferred so much power from the representatives to the constituents as must necessarily disturb the proceedings of Parliament...The effect...upon the morals of the lower class of people is terrible.'^{53/} A commentator in 1781 flatly contended that representatives were not bound to observe addresses from their constituents,

51/ Grand Jury, Gentlemen, Clergy and Freeholders of the County of Galway (31 March 1782), in Seward, Collectanea Politica, i, 207.

52/ The Question About Septennial or Frequent New Parliaments Examined in Two Letters to Charles Lucas, Esq., M.D. (Dublin 1761), 26.

53/ Ross J.S. Hoffman, ed., Edmund Burke, New York Agent, with his Letters to the New York Assembly and intimate correspondence with Charles O'Hara 1761-1776, 438; Hely-Hutchinson made a similar comment, H.M.C., rep. 12, app., ix, 264.

since 'they are summoned to parliament in order to consult for the nation at large...they are to attend to the good of the nation in general.'^{54/} A Volunteer, who seems to have been largely pro-administration, had put the same views in more detail:

Whether it is agreeable to reason, to the constitution, and the dignity of parliament, that any member of parliament, should pledge himself for more than a respectful attention to the instructions of his constituents?

Whether the representative of any one county or borough does not, upon taking his seat in parliament, become one of the representatives and judges for the whole kingdom, and not for his electors only?

Whether then a member of parliament can, with propriety, in any case, confine his views to the humorous or particular interests of those only who elected him... ^{55/}

The Americans, too, mentioned the duty of representatives to obey their constituents.^{56/} This was a basic implication of the Lockesian theory, but the question was not made a central issue in American thought. Many frontier areas were grossly under-represented, but the colonial legislatures generally were effective instruments of American policy rather than under the control of the British administration.

^{54/} An Essay on the Act of Poynings and the Present Mode of Appeal, (Dublin 1781), pp. 9-10.

^{55/} A Volunteer's Queries in Spring 1780 Humbly offered to the Consideration of all Descriptions of Men in Ireland, (Dublin 1780), 12.

^{56/} See C.F. Adams, ed., The Works of John Adams, iii, 480 and iv, 195. Also the following from 'The Censor' of Philadelphia, American Archives 4th Series, v, 71: 'The right of instructing lies with the constituents, and them only;...the representatives are bound to regard them as the dictates of their masters, and not left at liberty to comply with or reject them, as they may think proper.'

The Americans started from the proposition that their legislatures were in fact independent: 'his Majesty's liege People of this his most ancient and loyal Colony [Virginia] have without interruption enjoyed the inestimable right of being governed by such laws...as are derived from their own consent...the same hath never been forfeited or yielded up.'^{57/} For these reasons virtual representation was anathema to colonial opinion. James Otis spoke the colonial mind when he rattled off his famous retort: 'To what purpose is it to ring everlasting changes to the colonists on the cause of Manchester, Birmingham, and Sheffield, who return no members? If these now so considerable places are not represented, they ought to be.'^{58/}

American attention was thus brought to focus on the question whether the colonies should be or could be represented in the British Parliament. Franklin at first advocated a 'consolidating union' with 'Ireland and all the dominions...united and consolidated under one common council for general purposes each retaining its particular council or parliament for its domestic concerns.'^{59/} But he thought 'this nation is indeed too proud to propose admitting American representatives into their Parliament, and Americans

^{57/} J.P. Kennedy, ed., Journals of the House of Burgesses of Virginia, 1761-1765, 360.

^{58/} J. Otis, Considerations on Behalf of the Colonies, (London 1765), 6.

^{59/} J. Sparks, ed., The Works of Benjamin Franklin, vii, 316, 329.

are not so humble or so fond of the honour, as to petition for it.'^{60/} He eventually dropped the idea of American representation in Parliament. James Otis seems to have been the only other American spokesman willing to accept this arrangement.^{61/} This solution proved distasteful on both sides of the ocean. The arguments of the Adamses were representative of an overwhelming colonial opinion. Samuel Adams wrote in 1765 that 'the Colonies cannot be equally and fully represented [in the British Parliament], and if not equally then in effect not at all... the Colonies are at so great a distance from the place where the Parliament meets... and their circumstances are so often and continually varying... that it would not be possible for men... to continue to have an adequate knowledge of them during the existence of that Parliament.'^{62/} John Adams also offered several objections in 1775, among them the query: 'Would not representatives in the House of Commons, unless they were numerous in proportion to the numbers of people in America, be a snare rather than a blessing?'^{63/} Arguments against American representation in Parliament were also set forth in many public statements such as the declaration passed by

^{60/} Ibid, vii, 370.

^{61/} J. Otis, Rights of the British Colonies, Asserted and Proved, (Boston 1764), pp. 35-36, 65.

^{62/} H.A. Cushing, ed., The Writings of Samuel Adams, pp. 67-68.

^{63/} Adams, Works, iv, 139, also 101, 119.

the Stamp Act Congress,^{64/} the circular letter of the Massachusetts House of Representatives in 1768,^{65/} and the resolutions of the first Continental Congress.^{66/} Clearly, the Americans felt that to send a few representatives to England would serve only to legalize parliamentary action in American affairs, not prevent it.^{67/} (There was also some opposition in England to American representation in the British Parliament based on the expectation that the growth of population in America would eventually lead to the latter dominating Parliament).

Americans also had a distinctly different understanding of 'representation' from the British. The representative system was not set up in the earliest colonies in conscious imitation of the English House of Commons, but it was rather a convenient method of meeting the needs of a practical situation, the organizing of a government of freemen in the wilderness. The beginnings of representation in the colonies were produced and shaped by actual American conditions. The representative was a resident and a member of the community which elected him and he was sent to the legislature solely to voice the will of the people of that community. Parliament

^{64/} H. Niles, ed., Principles and Acts of the Revolution, 457.

^{65/} Massachusetts Gazette, 27 June 1768, reprinted in FJ, vi, 1, 3 September 1768.

^{66/} Journals of the Continental Congress, i, pp. 68-69.

^{67/} Namier points out that there were, in fact, five Americans in the House of Commons between 1763 and 1783. L.B. Namier, England in the Age of the American Revolution, 267.

in Britain had not had such a specific origin, but had evolved historically as the embodiment of the People, in the generality, as against the Crown. The system in Britain at the time of the American Revolution had become scarcely more than a method for filling the benches of the House.

'Democracies found themselves wedded to the oligarchical system of Great Britain in a union which did not allow of real equality, and which yet made any form of subordination seem unnatural and unfair.'^{68/} Even Franklin, who was a citizen of the world and a longtime resident in England, was taken aback by the way in which a general election was conducted in England: 'This whole venal nation is now at market, will be sold for about two millions, and might be bought out of the hands of the present bidders (if he would offer half a million more) by the very Devil himself.'^{69/}

At first glance, it might seem surprising that the question of imperial representation was not actively considered in Ireland, as there were no insurmountable geographic barriers to Irish representation, as there were in the case of America. However, the question of representation shows perhaps the most clearly the difference between the problems of government in Ireland and America,

^{68/} H.E. Egerton, The Causes and Character of the American Revolution, (Oxford 1923 - 1931 Impression), 22. I am indebted for ideas in this paragraph to A.C. McLaughlin, The Foundations of American Constitutionalism. See also C.M. Andrews, The Colonial Background of the American Revolution (New Haven, 1924 - 1942 edition), pp. 186-195.

^{69/} Sparks, Works, vii, 394. See also A.H. Smyth, The Writings of Benjamin Franklin, iv, 117.

and, accordingly, the emphasis given to varying constitutional arguments. A great deal of the Irish material discusses representation, but the bulk of the latter relates to making the Irish Parliament effectively representative of Anglo-Irish interests. The first and inescapable problem for the Irish was to win control of their parliament. The subject of imperial representation and the relationship of Ireland's domestic legislature to the empire was secondary. The broad outlines of American attitudes on these questions were the reverse. They found themselves impelled into the field of imperial relationships by their desire to preserve the power already acquired by their local representative bodies.

The question of representation also demonstrates the fundamental similarity of basic Anglo-Irish and British attitudes, and, therefore, the divergence between Irish and American viewpoints. Oligarchy prevailed in Ireland as in Britain. The electoral system was the same.^{70/} As noted previously,^{71/} the practical effect of the Octennial Act was to increase the value of the borough seats; Charles O'Hara complained to Burke, that this Act had raised electoral costs £300,000.^{72/} It will be noted that a good number of

^{70/} For a summary of the unrepresentative nature of the elections, see J.C. Beckett, 'The Irish Parliament in the 18th Century,' reprinted from Proceedings of the Belfast Natural History and Philosophical Society, 2nd series, iv, 1950/51-1954/55.

^{71/} See page 107 above.

^{72/} Hoffman, Burke, 438

the comments in favour of the responsibility of representatives to their constituents originated in the North of Ireland with its heavy Presbyterian influence. The Anglo-Irish, leading patriots as well as pro-Administration spokesmen, were very much opposed to democracy. The right of property was an accepted element in Lockesian theory, in America as in the British Isles, but the members of the Ascendancy took a decidedly oligarchical outlook on the question of property qualifications. One newspaper writer considered 'the words liberty and property to be almost synonymous terms,'^{73/} and Charlemont and Yelverton specifically attached property qualifications to the right of representation.^{74/} Swift had earlier defined 'law to be the will of the majority of those who have the property in land'^{75/} and a writer in 1766 labelled democracy as 'arbitrary' and 'detestable'.^{76/} A supporter of Poyning's Law, in 1781, alleged that the Act's repeal would mean the constitution's collapse 'beneath the weight of an usurping populace [and] farewell to liberty, for tyranny is at hand.'^{77/} Grattan, too, felt strong qualms about democracy. His favourite argument against the scandalous manner in which peerages were bestowed was that

^{73/} Letter from 'A Grazier', FJ, xiv, 43, 30 November 1776.

^{74/} HMC, rep. 12, app., x, 136; FJ, xiii, 41, 28 November 1775.

^{75/} H. Davis, ed., The Drapier's Letters and Other Works 1724-1725 Jonathan Swift, 134.

^{76/} McAuley, Septennial Parliaments Vindicated, 30.

^{77/} Essay on the Act of Poyning's, 17.

such degradation of the peerage would weaken and discredit a moral force that Ireland needed. This oligarchical attitude had a great deal to do with the failure of the reform attempt of 1784.^{78/} The independent Irish Parliament, thus contained at its birth the seeds of its destruction, for the administration utilized the opportunities for corruption to effect the Union of 1800.

This question received such great attention from the Irish patriot group because control of the public purse was essential to their efforts to establish the autonomy of the Irish Parliament. Increasingly effective control of public finance had been a key factor in the development of English parliamentary supremacy, and the Anglo-Irish were troubled with this heritage. The powers of the Irish Parliament over finance were decidedly limited. Its ability to initiate and control revenue was very much circumscribed by Parliament's law.

^{78/} One of the principal objectives of the United Irishmen was a parliamentary reform providing universal male suffrage and annual elections. See T.W. Moody 'The Political Ideas of the United Irishmen', in Ireland Today, iii, 1, pp. 15-25.

there were a number of members of the Irish House of Commons holding a patent of office from the Crown. The administration was, thus, generally able to direct the disposal of financial (and other) matters by 'purchasing' support in Parliament through the granting of places and pensions. The patriot group found themselves caught in a

CHAPTER VIII

CONTROL OF FINANCE

The control of finance was a prominent question in Irish constitutional discussions. Although an aspect of the problem of representation, previously discussed, it receives such extensive attention in the Irish material as to warrant its being considered a separate constitutional argument.

This question received such great attention from the Irish patriot group because control of the public purse was essential to their efforts to establish the autonomy of the Irish Parliament. Increasingly effective control of public finance had been a key factor in the development of English parliamentary supremacy, and the Anglo-Irish were imbued with this heritage. The powers of the Irish Parliament over finance were decidedly limited. Its ability to initiate and control revenue was very much circumscribed by Poynings' Law. In addition, a considerable portion of the funds raised in Ireland was beyond the control of the Irish Parliament, in the form of the King's hereditary revenue. Furthermore, there was no prohibition against a member of the Irish House of Commons holding a pension or office from the Crown. The Administration was, thus, generally able to direct the disposal of financial (and other) matters by 'purchasing' support in Parliament through the granting of places and pensions. The patriot group found themselves caught in a

vicious circle and were naturally very concerned with the problem of finance in an effort to break the bonds which entrapped them.

Circumscribed as it was by Poynings' Law, the struggle of the Irish Parliament centred on the elementary power of initiating and controlling revenue. Until the 1770s the spasmodic struggle for Irish parliamentary independence generally occurred over financial matters. The Irish Parliament had to fight for such a simple power as the right to establish how surplus revenue was to be utilized. A struggle between rival groups in the House of Commons touched off the first wide constitutional debate in 1753.^{1/} The Government insisted upon the inclusion of words signifying the King's previous consent to a bill appropriating surplus revenue to a payment on the national debt.^{2/} Varying arguments were offered against this proposition. It was held that the King's consent was unnecessary as 'he may refuse his concurrence, and thereby as effectually offset

1/ See J.L. McCracken, 'The Conflict between the Irish Administration and Parliament, 1753-6' in Irish Historical Studies, iii, pp. 159-179.

2/ The speech of the Lord Lieutenant, the Duke of Dorset, to the House of Commons, on 9 October 1753: 'I am commanded by his Majesty to acquaint you that He will graciously CONSENT and recommends it to you, that so much of the money remaining in his Treasury as shall be necessary be applied to the discharge of the National Debt, or of such part thereof as you shall think expedient.' The Cabinet, containing a Collection of curious papers relative to the present political contest in Ireland, some of which are now first published, (London 1754), 39.

the scheme'.^{3/} A resolution of the freeholders of the Province of Munster was 'Assent to the King, and consent to the Commons.'^{4/} If a previous consent was not effective it was not needed, and, if it was necessary, Parliament was superfluous. 'When a licence becomes necessary, a Parliament becomes useless.'^{5/} Furthermore, it was claimed that adding previous consent to the King's power of assent would put him 'on a superior foot' to Parliament by increasing the executive power out of proportion to that of the legislature.^{6/} The argument most clearly indicating constitutional theory was the contention that the King was but 'an Agent of the people, and a trustee for the laying out the public wealth for public advantage' as directed by the people's representatives, i.e., Parliament, and therefore as but an administrator he could have no power of consent over these funds.^{7/}

The mass of pamphlets which this dispute called forth is singularly free of over-all theory, and even contains relatively little theory on the money question or the idea of previous consent. These writings rely heavily upon personal abuse and imputations. The Government accomplished

^{3/} Common Sense in a Letter to a Friend, (4th Edition, Dublin 1755), 18. See also C. Lucas, Truth Against Craft, (Dublin 1754), pp. 43-48.

^{4/} Address from the Independent Freeholders of the P--v--ce of M--ns--r, To Sir R----- C-----, Baronet, (London 1754), 14.

^{5/} C. Lucas, The State of Ireland Laid Open to the View of his Majesty's Subjects, (London 1754), 45.

^{6/} Common Sense, 17.

^{7/} Ibid, 16, 23.

the disposal of the surplus revenue by royal decree, but Parliament settled the question in future years by regularly appropriating considerable sums for public works, in order to ensure that no surpluses remained to cause argument.

The most persistent question of constitutional theory relating to taxation was the claim of the House of Commons, as the representatives of the people, to be the sole originator of money bills. Poyning's Law provided that Parliament could be called in Ireland only to consider the measures certified to it from England. The Irish held that this measure could not be a money bill. They contended that the power of the Irish House of Commons to be the sole originator of money bills was a fundamental parliamentary prerogative that could not be abolished or diminished by the procedures specified by Poyning's Act. 'The Law [Poyning's] enacts that Bills certified by the Council be Good and Expedient for the land. It is neither Good nor Expedient for the land, that a Money Bill should take its rise anywhere except in the House of Commons, because they alone are authorized by the people to dispose of their property.'^{8/}

^{8/} 'Letter V on Poyning's Law' from 'Liberty', FJ, vii, 52, 13 January 1770. See also Constitution of Ireland and Poyning's Law, 5; Considerations on the Intended Modification of Poyning's Law, (London 1780), pp. 14-15. One writer in 1757 had maintained that Poyning's Law was needed to prevent the Lord Lieutenant from buying up Parliament and passing unwise and treasonable laws, particularly against the Protestant religion. Remarks upon Poyning's Law and the Manner of passing Bills in the P-----t of I-----d, (Dublin 1757), 11.

This argument is one of the few points of constitutional theory discussed in Baratariana. (It also marked Grattan's first public expression of views on constitutional matters; the first quotation was written by him under the pseudonym 'Posthumus').

Does the law of Poynings, by requiring the council to certify some bill, enable it to certify any bill? Does it let that body loose upon the sacred property of the Commons, and remove even the shadow of an English constitution? It only gives a power to the council, but it does not unappropriate that power which the constitution has exclusively give the Commons. 9/

Poynings' Law did not express a money bill, and... construction was no more to avail against privilege, than against prerogative. Explication cannot abridge the rights of the crown, and...as little can abridge the rights of the people. 10/

The Irish House of Commons was always touchy about money bills, and occasionally was impelled to insist unequivocally upon its sole power of originating appropriations, Poynings' Law to the contrary notwithstanding. Even in 1692, when the Ascendancy was hardly established, the House resolved 'That it was, and is, the sole and undoubted right of the Commons to prepare Heads of Bills for raising money.' 11/ In 1769, a resolution, copied from that of 1692, rejected a money bill because it did not originate in the House of Commons.

9/ Baratariana, A Select Collection of Fugitive Political Pieces published during the Administration of Lord Townshend in Ireland, (2nd edition, Dublin 1773), 61. See also p. 70. Here Grattan does concede that the procedure under Poynings' Law may also be legal but not 'equally eligible' with origination of money bills by the House of Commons.

10/ Ibid, 83.

11/ Resolution of the House of Commons, 27 October 1692. The text is quoted in C. Lucas, The Rights and Privileges of Parlements, (3rd edition, Dublin, 1770), 23.

This action was a defensive move by the Irish Undertakers in their ultimately unsuccessful attempt to resist the effort to break their power, launched by the first continuously resident Lord Lieutenant, Lord Townshend.^{12/} However, it is noteworthy that the question attracted the support of a majority of this packed Parliament. Most of the members had received special favours from the Government which could and would be withdrawn, and thus risked a good deal by going into opposition on this case.

A constitutional furor~~o~~ arose when Lord Townshend, after the supplies and army augmentation had been safely voted, delivered personally to Parliament a protest against the constitutionality of the resolution, and promptly prorogued Parliament.^{13/} A storm of protest resulted. Most of the bitter attacks on Lord Townshend in Baratariana followed on this episode; in one of the letters Grattan wrote: 'We looked for protection not violation in your lordship...You say you had orders; I believe you had orders, but as there are terms on which no honest man will accept an employment, so

^{12/} In an earlier episode in this struggle, the Lords Justices, on 27 December 1760, following the accession of George III, contended that the custom of sending over a money bill from England as a cause for summoning Parliament was inexpedient and should be abandoned. They did not, however, argue that it was unconstitutional. The Presentation of the L---s J-----s of Ireland Touching the transmission of a Privy Council Money Bill Previous to the Calling of a New Parliament in Two Letters Addressed to His Grace the Duke of Bedford, (Dublin 1770), 22.

^{13/} The text of Lord Townshend's protest delivered December 26, 1769 is printed in H. Grattan, ed., Memoirs of the Life and Times of the Rt. Hon. Henry Grattan, i, pp. 99-101. The House of Commons refused to enter the protest on its Journal as Townshend directed.

are there terms on which no honest man will continue in one.^{14/}
Charlemont was also incensed by this action, labelling it
'an illegal and unconstitutional measure'.^{15/} A few of the
letters in Baratariana also assert that the exclusive power
of the House of Commons in drawing up money bills meant that
the House was empowered to originate rather than merely reject
money bills, and that the crown had no power to alter money
bills passed by the Commons.^{16/} The coincidence of Lord
Townshend's action with events in America brought forth cries
of a plot: 'The whole British Empire is now convinced of a
determined scheme for the introduction of arbitrary taxation...
If any alteration in a money bill be admitted, every alteration
may be made.'^{17/}

In 1773 there was again general indignation when the
supply bills were altered in England. The bills were
rejected almost unanimously, on the grounds that the alterations
were unconstitutional. The Commons then re-enacted them with
new titles, embodying many of the amendments. Burke warned
O'Hara the following year that this procedure could be
dangerous to the rights of the House of Commons: 'Your
rejecting their bill, in order to save your honour together
with their amendments, is only a more circuitous, inconvenient

^{14/} Baratariana, 65.

^{15/} H.M.C., rep. 12, app., x, pp. 28-30.

^{16/} Op.Cit., pp. 247-249, 254, 258, 281.

^{17/} Letter from 'Ireland', Freeman's Journal, ix, 50, 24
December 1771.

and expensive way of admitting their right... frequent
voluntary compliances annul the protest and affirm the
demand, ^{18/}

The Commons' right to originate money bills was an
integral part of English political tradition, and, thus, it
was mentioned by commentators throughout the Irish
constitutional debates. Chatham, writing about the proposed
Irish tax on absentee landowners in 1773, expressed the
thought well: 'The line of the Constitution - a line written
in the broadest letter through every page of the history of
Parliament and people - tells me that the Commons are to judge
the propriety and expediency of supplies.' ^{19/} In 1754, a
pamphleteer spoke of 'the representatives of this country,
from whom all money bills naturally take their rise' ^{20/} and
another writer four years later told the people of Ireland
that 'the management of your own revenues, and enacting laws,
are certainly within your power.' ^{21/} Hely Hutchinson, Prime
Serjeant and a Government supporter, stated in the House of
Commons in 1763: 'I am clearly of the opinion that [it is]

^{18/} Ross J.S. Hoffman, ed., Edmund Burke, New York Agent, with
his Letters to the New York Assembly and intimate corres-
pondence with Charles O'Hara 1761-1776, pp. 560.561.
Italics in the original.

^{19/} W. Stanhope Taylor & J.H. Pringle, eds., The Correspondence
of William Pitt, Lord Chatham, iv, pp. 296-308.

^{20/} The Cabinet, 46.

^{21/} An Address to the People of Ireland on the Present State
of Public Affairs and their Constitutional Rights,
(Dublin 1758), 19.

^{26/} H. Grattan, ed., Miscellaneous Works of the Rt. Hon.
Henry Grattan, 17.

this House whose peculiar province it is to grant supplies.'^{22/}
 A few months later an article in the Freeman's Journal, that sounds as though it may have been written by Lucas, offered a sweeping vindication of the taxing power as 'the capital, the incommunicable privilege of the House of Commons.'^{23/} A letter written just after Townshend's protest asserted that 'by the Constitution... the origin of money bills is vested solely in the representative body of the people.'^{24/} In 1772 the independent gentlemen of County Mayo warned their representative in Parliament, Sir Charles Bingham, that 'if you suffer the crown to originate or to alter a money-bill, even in the smallest article, you give up our rights, you totally destroy the Constitution.'^{25/} Coming down to 1781, Brownlow, a Grattan supporter, stated in the House of Commons that 'this control of parliament over the money of the nation is the grand palladium of the constitution.'^{26/} Grattan, in passing, flatly asserted 'the inherent and exclusive right of the Commons to originate bills of supply.'^{27/}

The results of the struggles over government finance in Ireland were never satisfactory. Parliament was never able

^{22/} Sir James Caldwell, ed., Debates Relative to the Affairs of Ireland in the Years 1763 and 1764, (London 1766), 255.

^{23/} The article was number 49 in a series simply labelled 'The Watchman' which had been running since the founding of the paper in September 1763. FJ, i, 67, 28 April 1764.

^{24/} Letter from 'Administration', FJ, viii, 104, 15 May 1770. Also: FJ, viii, 17, 14 June 1770.

^{25/} FJ, ix, 70, 8 February 1772.

^{26/} The Parliamentary Register, i, 147.

^{27/} H. Grattan, ed., Miscellaneous Works of the Rt. Hon. Henry Grattan, 17.

to gain effective control, and thus strike the crushing weapon of wholesale bribery and pensions from the hands of the Government. A considerable portion of the funds was beyond the control of Parliament, in the form of the hereditary revenue. The King had long been allowed to treat these monies as private alienable property, although this claim was historically and legally doubtful.^{28/} Grattan commented that 'the power of the purse is given up already, by the hereditary revenue, that original sin of your ancestors which visits you from generation to generation.'^{29/} The vicious circle could not be broken as the Government's purchased majorities made it impossible to shut off the source of these dispensations. The question of the ultimate power of the purse as a weapon for the Irish Parliament was therefore made largely academic. On two occasions short money bills were threatened to win desired measures - a limited Parliament in 1766,^{30/} and commercial concessions from Great Britain in

^{28/} Most of the constituent parts of the hereditary revenue had been granted for specific purposes or with limitations, particularly as to diverting funds to pensions. It is surprising that the Patriot leaders never challenged the violation of these restrictions. See W.E.H. Lecky, A History of the Ireland in the 18th Century, ii, 52. He cites a pamphlet that I have not come upon, Alexander McAuley, Enquiry into the Legality of Pensions on the Irish Establishment, (London 1763).

^{29/} In his speech urging the repeal of the Perpetual Mutiny Act, 13 November 1781. H. Grattan, ed., The Speeches of the Rt. Hon. Henry Grattan, i, 87.

^{30/} See 'The Address of the Merchants, Traders, Freeholders and Citizens of the City of Dublin to their Representatives in Parliament' in FJ, iii, 74, 22 May 1766.

1779.^{31/} In both cases the objects sought were conceded shortly after. The only writer who suggested the power of the purse as the means for Ireland to seek removal of its grievances was clearly sympathetic to Great Britain.^{32/} A pro-Government commentator on the perpetual Mutiny Bill argued that Parliament could always control the King's use of the Army through refusing supplies,^{33/} but another pamphleteer replied that the loss of authority over the armed forces could mean the loss of control over the wealth of the country.^{34/} In addition, the power of the purse was an ultimate exercise of strength which had to be taken with due regard for the ability of the Governmental structure to absorb the shock:

One of the 'patriots' in the parliament, meeting an argument put forward by the government side that supplies could be limited or refused, compared the alternative to that of a man burning his house in order to destroy the fleas. The constitutional fleas in the Irish Parliament were an abominable nuisance, but preservation of the house erected in 1661 on the ruins of 1641-9, and extended in 1689, was of the first importance. ^{35/}

^{31/} Resolutions supporting a Six-Month Money Bill appeared in numbers in the Freeman's Journal during the autumn of 1779. See FJ, xvii, 28, 28 October 1779. The House of Commons debate on the Bill was reported in FJ, xvii, 41, 27 Nov. 1779.

^{32/} A Candid Display of the Reciprocal Conduct of Great Britain and her Colonies from the Origin of the Present Contest to the Claim of Independency, with a seasonable memento to the ruling powers of Great Britain and Ireland, (Dublin 1780), 35.

^{33/} An Answer to a Pamphlet entitled Observations on the Mutiny Bill, (Dublin 1781), 9, 12.

^{34/} Laurence Parsons, A Dissertation upon the Perpetual Mutiny Bill, (Dublin 1781), 18. Parsons is given as the author in a manuscript note on the pamphlet in the Halliday Collection at the Royal Irish Academy, Dublin.

^{35/} T.J. Kiernan, History of the Financial Administration of Ireland to 1817, 220.

Their own concern with constitutional issues related to money matters inclined the Irish to view control of finance as the foremost question in the American dispute. 'No taxation without representation' was a maxim that caught the imagination of Irishmen.

The principle had been mentioned somewhat obliquely a few times in earlier Irish financial disputes,^{36/} but during the period 1769-1775, and particularly in the latter year, there were many comments on this idea in the Irish press. In August 1768 there appeared a newspaper article 'Queries recommended to the Confederation of Gentlemen who are for vigorous measures with the Americans' which asked 'what is it for a people to be enslaved and tributary if it is not to be forced to give up their property at the arbitrary pleasure of persons to whose authority they have not submitted themselves.'^{37/} A correspondent in 1770 claimed that 'if my property be not secure neither is indeed my liberty or life',^{38/} and, shortly after, another writer said that the right of taxation arose 'merely and solely from representation.'^{39/} Lucas apparently had Poynings' Law in mind when he included in his definition of the rights of the Irish Parliament the proposition that 'the people... are only to be taxed by their own consent...and

^{36/} The Cabinet, 45, 46. Address from the Independent Freeholders, 7; Baratariana, 32; FJ, i, 15, 29 October 1763. FJ, ii, 68, 30 April 1765.

^{37/} FJ, v, 103, 27 August 1768. Italics in the original.

^{38/} 'Letter XIII on Poynings' Law' from 'Liberty', FJ, vii, 61, 3 February 1770.

^{39/} FJ, viii, 117, 14 June 1770; also FJ, viii, 104, 15 May 1770.

this power of taxation [is] so separate and distinct from that of representation.^{40/} Another writer offered the argument against Poynings' Law that it could not 'be agreeable to reason' that this Act 'should be so construed as to deprive them [the people] of their most invaluable privilege, the right of taxing themselves' and he alleged (applying 18th century standards to 1494) that 'the people's right over their money was not called in question at the time of passing' Poynings' Law.^{41/}

The Freeman's Journal in August 1774 featured on the front page, 'A true state of the proceedings in the Parliament of Great Britain, and in the Province of Massachusetts Bay, relative to the giving and granting the Money of the People of that Province and of all America in the House of Commons, in which they are not represented.'^{42/} Under an explanatory statement that 'with regard to the right of the British Parliament to impose taxes upon America, the following argument.... is, in our opinion, unanswerable' the same newspaper, in December 1774, reprinted an excerpt from a pamphlet, apparently American, opposing the power of Parliament to tax the Colonies.^{43/} Just a few days later, a writer, after

^{40/} Lucas, Privileges of Parlements, 30.

^{41/} The Constitution of Ireland and Poynings' Law Explained, (Dublin 1770), 5, 14.

^{42/} FJ, xii, 1, 27 August 1774.

^{43/} FJ, vii, 48, 15 December 1774. The pamphlet title was given as An Appeal to the Justice and Interests of the People of Great Britain. The only identifying comment was that it was 'lately published by Almon'. I have not been able to trace it. The key portion of the excerpt read as follows: 'The delegation of the people is the source of that power...of taxation. That delegation [to Parliament] is wanting on the part of America, and therefore the right cannot exist.'

reviewing the usual arguments, warned that 'by the same authority which the British parliament assumes to tax America it may also...presume to tax Ireland without the concurrence or consent of the Irish parliament. The same reasons will hold good in both, and... will be equally fallacious, arbitrary and unjust in either case.'^{44/} An article a short while later asserted that the only reason 'why the British Parliament has not oftener exerted its sovereign authority by taxing Ireland, is that the Irish Parliament has itself made due provision for the support of the government.'^{45/} Half a dozen writers in 1775, just before and after the news of Lexington and Concord, strenuously defended the doctrine of 'no taxation without representation' and warned that Ireland might find itself in the same position as the Colonies.^{46/}

In the House of Commons in 1775, particularly during the debate regarding sending Irish troops to America, Yelverton and Hussey Burgh attacked taxation without representation as 'contrary to all reason' and as perfect slavery.^{47/} At the same time a dissident resolution in the House of Lords held that 'the object of this war was the establishment of the

^{44/} Letter from 'Dymoke', FJ, xii, 55, 31 December 1774.

^{45/} FJ, xii, 77, 21 February 1775.

^{46/} 'Letter V to the Freeholders of Ireland' from 'A Grazier', FJ, xii, 90, 23 March 1775; Letter 'To the People of Ireland' from 'Valerius', FJ, xii, 127, 17 June 1775; Letter 'To Dr. Samuel Johnson', from 'Tyranny', FJ, xii, 128, 20 June 1775; Letter from 'Hibernicus Fidelis', FJ, xii, 145, 29 July 1775; Letter from 'An Independent Whig', FJ, xiii, 22, 14 October 1775.

^{47/} FJ, xiii, 21, 12 October 1775; FJ, xiii, 41, 28 November 1775.

power of the British Parliament to tax America, a power which we know is not inherent in the general constitution of the British Empire.^{48/} Even the pro-Administration Charles O'Hara insisted in his correspondence with Burke that 'taxation is not comprised within the term legislative supremacy; I am sure it is not.'^{49/} After the American Declaration of Independence a letter writer 'absolutely' denied the principle.^{50/} A pamphlet in 1779 argued that concession to the British Parliament of the power to tax Ireland would only lead to further infringements, and that 'the first and obvious idea of a union is a proposal to tax Ireland without her consent.'^{51/} Young William Drennan, writing to his sister in 1777, said that he would choose as the emblem for the American seal 'a Hercules as yet but in cradled infancy strangling the serpents of taxation and despotism, sent by an envious step-dame to destroy the child of heaven.'^{52/}

Hercules Langrishe and Gervase Parker Bushe, in 1769, wrote pamphlets dealing with the question of imperial taxation. These publications were among the few efforts by leading

^{48/} FJ, xiii, 42, 30 November 1775.

^{49/} Hoffman, Burke, 586.

^{50/} FJ, xiv, 43, 30 November 1776.

^{51/} A Letter to the People of Ireland, (Dublin 1779), 7, 62.

^{52/} Unpublished portion of letter of 4 May 1777 (Letter No.8) in typescript collection of Drennan Letters at the Public Record Office of Northern Ireland.

Irishmen to discuss the organization of the empire specifically and at some length. It is noteworthy that both pamphlets discuss only America's relationship to Britain. Langrishe compares Ireland's ability to pay taxes to that of England, but no questions of imperial relationship are included in these pages. Other than this, Ireland is hardly mentioned in either pamphlet, and its position in the imperial organization is not discussed. Both men at the time were prominent members of the Irish patriot group (although they often supported the Administration in later years). They were in contact with Benjamin Franklin at the time,^{53/} and may have been influenced by him.

Bushe's principal aim in The Case of Great Britain and America was to destroy the virtual representation theory in regard to the power of taxation: 'both the representative and the electors [in Britain] pay a part of the tax as well as those who have no suffrage; whereas, if the House of Commons of England should tax the Americans, neither the representatives, nor the electors, would pay any proportion of what they imposed...they would not tax but untax themselves.'^{54/} His argumentation is not impressive and his conclusion vague and unperceptive:

^{53/} See above, page 19.

^{54/} G. Parker Bushe, The Case of Great Britain and America (3rd Edition, Dublin 1769), 7.

We should leave the Americans to tax themselves...we should retain to the British Parliament every power that is not inconsistent with our justice and their liberty...and lest at any time hereafter it may be disputed where the line is drawn, between American liberty and British jurisdiction, perhaps it might not be improper to declare, in the same law, the supremacy of Britain. 55/

Langrishe added little new in his Considerations on the Dependencies of Great Britain. He felt that 'no body of men descended in the twentieth degree from Britons will live contentedly under this maxim of government: that persons distant from them a 1000 leagues are to tax them to what amount they please without their consent.'^{56/} Without seeming to realize the import of his words, he touches on the natural law theory:

if...it is reasonable that the Colonies should have representatives - to tax them without such would be unjust - and what is unjust no body of men have a right to do. Justice limits (if I may use the expression) even the omnipotence of the omnipotent. 57/

No one in Ireland ventured to oppose the theory that representation was a prerequisite to taxation. However, Connolly and Ogle opposed any mention of America in the reply of the House of Commons to the opening address of the Lord Lieutenant in 1775, for fear that Britain would tax Ireland too.^{58/} It was also adduced later that the question did not arise because 'the English parliament meddles not in our taxation... these are our own concerns.'^{59/}

55/ Ibid, pp. 39-40.

56/ H. Langrishe, Considerations on the Dependencies of Great Britain, (London 1769), 74.

57/ Ibid, 74.

58/ FJ, xiii, 21, 12 October 1775.

59/ Considerations Submitted to the People of Ireland on their Present Condition with Regard to Trade and Constitution, (Dublin 1781), 45.

The American position on financial issues is well-known. As early as 1753 the doctrine of taxation without representation had been invoked by the Virginia Assembly in the Pistole Fee dispute with Governor Dinwiddie.^{60/} This doctrine was the rallying point for American reaction to the Stamp Act. It was supported by resolutions passed by all the colonial legislatures,^{61/} and the Stamp Act Congress declared it 'inseparably essential to the freedom of a people, and the undoubted rights of Englishmen, that no taxes should be imposed on them, but with their own consent.'^{62/} Richard Bland, in the Virginia memorial of 1768 to the House of Lords, stated that 'no power on earth has a right to impose taxes upon the people... without their consent, given by their representatives in parliament.'^{63/}

There was an implication in the American reaction to the Stamp Act that they were adopting a distinction between internal and external taxation, allowing the British Parliament competence in the latter, but not in the former. This distinction was rather implied than actually made. The

^{60/} J.P. Kennedy, ed., Journals of the House of Burgesses of Virginia, 1752-1758, 143.

^{61/} The resolutions of Virginia and Pennsylvania were reprinted in the Freeman's Journal. The former were reported in a manner similar to that used in the American newspapers, which gave the impression that all of the inflammatory resolutions proposed by Patrick Henry had been passed, when, in fact, only four were passed and the three most radical proposals were not. See FJ, ii, 99, 17 August 1765, and FJ, iii, 27, 7 December 1765.

^{62/} H. Niles, ed., Principles and Acts of the Revolution, 457.

^{63/} Kennedy, ed., Journals of the House of Burgesses, 1766-1769, 166.

colonists talked a great deal about internal taxation, since that was what they were denying, but very little about external taxation, since to approve it was not essential to their arguments. For instance, Daniel Dulany's widely read Considerations on the Propriety of Imposing Taxes in the British Colonies,^{64/} whose arguments apparently influenced Pitt, talked of 'internal taxes' but did not even use the phrase 'external taxes'. At any rate, the English friends of America - and Franklin too^{65/} - apparently felt that the Americans had taken this distinction as the key to the imperial relationship. They found this formula so useful that they converted it into a working principle of the imperial constitution.

Charles Townshend soon demonstrated, however, that the distinction was unworkable. Americans raised a new distinction, already implicit in many resolves and pamphlets,^{66/} which distinguished between taxation for revenue as unconstitutional and taxation for regulating trade as constitutional. The chief architect of this theory was John Dickinson in his enormously popular Letters from a

^{64/} Daniel Dulany, Considerations on the Propriety of Imposing Taxes in the British Colonies for the Purposes of Raising a Revenue by Act of Parliament, (Second edition, London 1766), pp. 30-35.

See also: Richard Bland, An Inquiry into the Rights of British Colonies, (Williamsburg 1766), 30; Stephen Hopkins, The Grievances of the American Colonies Candidly Examined, (London 1766).

^{65/} A.H. Smyth, ed., The Writings of Benjamin Franklin, iv, 424.

^{66/} For instance, see Dulany, Considerations, 34.

Farmer in Pennsylvania.^{67/} The criterion he offered for judging individual laws was the intention in passing them, whether to regulate trade or to raise a revenue. This concept was dangerously close to reasoning in a circle.

Dickinson's legalistic doctrine did not offer a sufficiently clear cut rule of imperial relationship. Although writings and resolutions continued to make use of this doctrine for several more years, colonial opinion moved on to the concept of home rule which denied the British Parliament's right to lay taxation of any description on the Colonies. John Adams noted that 'the distinction between taxation and legislation...has since been found to be a distinction without a difference,'^{68/} and a Virginian emphasized 'that whatever taxation and representation might be, taxation and government were inseparable.'^{69/} Franklin by 1770 felt that the British Parliament had no more right to tax the colonies 'than it has to tax Hanover. We have the same King, but not the same legislatures.'^{70/} The first Continental Congress resolved that the colonists were

^{67/} P.L. Ford, ed., The Writings of John Dickinson, i, pp. 277-406. The first three letters were reprinted in the Freeman's Journal. The first was sent into the newspaper by 'Constant Reader - Constitutionalist'. See FJ, v, nos. 43-45, 30 Jan 1768 - 6 February 1768. The first Baratariana letters were addressed 'To a Friend in Pennsylvania'. The fifth letter, which was one of those thus addressed, was published in FJ with the first Pennsylvania Farmer letter.

^{68/} C.F. Adams, ed., The Works of John Adams, iv, pp. 113-114.

^{69/} A letter from a Virginian to the Members of Congress to be held in Philadelphia, 1st September 1774, (Boston 1774), pp. 22-23.

^{70/} J. Sparks, ed., The Works of Benjamin Franklin, vii, 487.

'entitled to a free and executive power of legislation in their several Provincial Legislatives...in all cases of taxation and internal polity.'^{71/}

On the right to control their own finances the Irish and Americans were in thorough agreement. As late as 1774, many of the American resolves still dealt with taxation.^{72/} Historically, the increasingly effective control of the purse had won the rights and freedoms of Englishmen, and this concept was deeply ingrained in the common British heritage of both lands. The question of internal taxation, per se, did not arise in Ireland because the British Parliament never levied any tax on Ireland. 'No taxation without representation' was, however, a valid complaint in Ireland, as Britain controlled Irish taxation through the Poynings' Law procedure and the Government's bribing power. No British stamp tax was levied on Ireland but the Administration obtained the passage by the Irish Parliament of an Army Augmentation Act in 1769, which added to the Irish forces stationed in the Empire almost the exact number that the Stamp Act had been designed to support.^{73/} Indeed, the Irish

^{71/} Journals of the Continental Congress, i, pp. 68-69.

^{72/} C.F. Mullett, Fundamental Law and the American Revolution, 153.

^{73/} The exact augmentation over 12,000 was 3235 troops. The Stamp Act had been intended to provide the cost of one-third of the 10,000 men to be stationed in America, i.e. of about 3,330. I am indebted for this observation to R. Coupland, The American Revolution and the British Empire, 97. The Irish recognised that the Augmentation Act, in effect, replaced the Stamp Act. See: Considerations on the Present State of the Military Establishment of this Kingdom, (Dublin 1768), 41; A Collection of the Protests of the Lords of Ireland from 1634 to 1771, (Dublin 1772), 101.

Parliament was later brought to passing a Stamp Act ('hated by God and man') for Ireland.^{74/}

The Irish position, however, was not essentially advanced beyond the doctrine of internal and external taxation. British taxes on Irish imports were not made an issue. Grattan once complained of the tax on tea as one without Irish consent,^{75/} but there was no Dublin Tea Party! The Irish attitude did not develop much further than that of the pro-American group in England, which seized on the distinction between internal and external taxation as their working guide of imperial relationship.^{76/} Irishmen saw the American dispute as a question of taxation.^{77/} Their comments in this vein continued up to and after the Declaration of Independence, and did not reflect appreciation of the fact that American opinion had moved on to home rule and dominion concepts. This Irish viewpoint was again evidence of the underlying community of interest between the Anglo-Irish and the British

^{74/} FJ, xi, 37, 20 November 1773.

^{75/} In the House of Commons in 1780. Grattan, Memoirs, ii, 27.

^{76/} Pitt, speaking on the repeal of the Stamp Act, was quoted in FJ, iii, 59-60, 29 March - 1 April 1766.

^{77/} They did not immediately recognise the taxation question in America. The notice of the signing of the Stamp Act was carried in a long list, without comment, buried on page 2 of the Freeman's Journal, iv, 61, 6 April 1765. In fact in 1758, a pamphleteer arguing for the competence of the Irish Parliament in financial matters, sought to drive home his point with the prophetic query: 'Does the Parliament of England raise money or make provincial laws even for our new colonies in America? and can it be supposed so unnatural and unjust a proceeding would be attempted?' Address to the People of Ireland, 18.

basic attitudes.

It is not clear how much the Americans were aware of the Irish experiences in financial matters. The Irish record, however, makes it obvious why the American reaction was so fierce and uncompromising to British attempts to provide independent civil lists and financial independence for the Royal Governors.^{78/}

The urgency of this situation was the subject of a notable series of reports on the economic state of Ireland prepared in 1778, at the request of the Lord Lieutenant, by a number of leading Irish gentlemen. The main thesis of these

1/ It was not possible to cite all of these discussions dealing with economic matters. The following are a selection noted more or less at random: 'Address to the King by the Merchants, Traders, and other Principal Inhabitants of the Town of Belfast' (2 November 1775), in E. Joy, ed., Historical Collections relative to the Town of Belfast from the earliest period to the Union with Great Britain, (Belfast 1817), 119; Petition to the House of Commons from the Merchants and Traders of Cork (1777), in W.S. Howard, ed., Collectanea Politica, 140; Protest in the House of Lords, in Hibernian Journal, 26 Dec. 1777; Resolution introduced in the

78/ The most violent objection to the Townshend Acts was to the ministry's express intention to use the revenues for defraying the costs of the administration of justice, and of the civil government in those provinces in which it might be necessary.

Complete Collection of the Resolutions of the Volunteers, Grand Alliance, State of Ireland, first Prince Serjeant Pugh, on the same occasion, in Freeman's Journal, xvii, 22, 14 Oct. 1779; J. Dunn, Thoughts on Newspapers and a Free Trade, (Dublin 1780), pp. 16-17.

2/ These papers were re-printed by J. O'Brien in 'Irish Free Trade Agitation of 1778' in the English Historical Review, xxviii (1923), pp. 564-581, and xxix (1924), pp. 95-103.

COMMERCIAL RESTRAINTS

A great deal of the Irish objection to British supremacy was ascribed to practical considerations growing out of the crippling restrictions on Irish trade.^{1/} The jealous British mercantile prohibitions shackled Ireland's commerce far more thoroughly than that of America. The economic depression caused thereby apparently was genuine. The urgency of this situation was the subject of a notable series of reports on the economic state of Ireland prepared in 1779, at the request of the Lord Lieutenant, by a number of leading Irish gentlemen.^{2/} The main thesis of these

1/ It was not possible to note all of these discussions dealing with economic matters. The following are a selection noted more or less at random: 'Address to the King by the Merchants, Traders, and other Principal Inhabitants of the Town of Belfast' (9 November 1775), in H. Joy, ed., Historical Collections relative to the Town of Belfast from the Earliest Period to the Union with Great Britain, (Belfast 1817), 119; Petition to the House of Commons from the Merchants and Traders of Cork (1777), in W.W. Seward, ed., Collectanea Politica, 140; Protest in the House of Lords, in Hibernian Journal, vii, 156, 26 Dec. 1777; Resolution introduced in the House of Lords by Lord Shannon (21 Dec. 1779), in Authentic Minutes of the Proceedings of a Very Respectable Assembly on the 20th of December 1779, (Dublin 1780), pp. 57-58; Grattan's amendment to the reply of the House of Commons to the address of the Lord Lieutenant (13 Oct. 1779), in C.H. Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries, Etc., of Ireland, cxiv; Prime Serjeant Burgh, on the same occasion, in Freeman's Journal, xvii, 22, 14 Oct. 1779; J. Dunn, Thoughts on Newspapers and a Free Trade, (Dublin 1780), pp. 16-17.

2/ These papers were re-printed by J. O'Brien in 'Irish Free Trade Agitation of 1779' in the English Historical Review, xxxviii (1923), pp. 564-581, and xxxix (1924), pp. 95-109.

studies,^{3/} and of many other comments over the years,^{4/} is that liberalization of Irish trade would directly benefit rather than harm Great Britain. Another facet of the practical attack on the trade restrictions was an attempt to organize the non-importation of British goods on the American model.^{5/} The situation is perhaps best summed up by a

3/ Ibid, xxxviii, 568 (Sir Lucius O'Brien), 570 (Lord Lifford), 572 (Edmund Sexton Pery, Speaker of the House of Commons), 575 (Wm. Hussey Burgh, Prime Serjeant); Ibid, xxxix, 102 (Lord Lifford).

4/ H. Davis, ed., The Drapier's Letters and other works, 1724-1725, Jonathan Swift, 128; An Epistle from Larry Dunn to all his Countrymen who wish Prosperity to Ireland and Freedom to P-----s, (Dublin 1757), 15; A Dialogue between an English Nobleman and a Gentleman of Middlesex on the Affairs of Ireland, (Dublin 1762, reprinted from the London edition), 6, 28-29; H.M.C. rep. 12, app., x, 14; W. Beresford, ed., The Correspondence of the Rt. Hon. John Beresford, illustrative of the Last Thirty Years of the Irish Parliament, 59: The Letters of Guatimozin on the Affairs of Ireland, (Dublin 1779), 56; Attorney General Scott, a Government supporter, in the House of Commons, in FJ, xvii, 22, 14 Oct. 1779; Unanimous Resolutions of the House of Commons, Journals of the House of Commons of the Kingdom of Ireland, x, 55; Sir James Caldwell, An Enquiry how far the restrictions laid upon the Trade of Ireland by British Acts of Parliament are a benefit or disadvantage to the British Dominions in General and to England in particular, (London 1766), 752. A Letter to Edmund Burke, Esq., by birth an Irishman, by Adoption an Englishman, containing some reflections on Patriotism, Party Spirit, and the Union of Free Nations, with Observations upon the means on which Ireland relies for obtaining Political Independence, (Dublin 1780), 11; R. Houlton, A Selection of Political Letters which appeared during the Administrations of the Earls of Buckinghamshire and Carlisle, under the signatures of Junius-Brutus, Hampden, The Constitutional Watchman and Lucius Hibernicus, (Dublin 1782), 51. See also H. Butterfield, George III, Lord North and the People, 1779-1780, 98.

5/ In 1767 the FJ reprinted from the Boston Gazette the resolution of the Boston Town Meeting urging the use of colonial products only, with the comment: 'This affords a hint also to a neighbouring kingdom.' FJ, v, 32, 22 Dec. 1767; Letters of Guatimozin, 20, 21, 51, 76; H. Grattan, ed., Memoirs of the Life and Times of the Rt. Hon. Henry Grattan, pp. 129-131, 135; FJ, xvi, 150, 7 August 1779; FJ, xviii, 27, 24 October 1780; R. Coupland, The American Revolution and the British Empire, 121.

modern historian who comments that 'there was... no place in a merchantilist Empire for a "plantation" which, being situated on the doorstep of the parent State, was debarred by climate from producing exotic commodities, and whose national production overlapped, actually or potentially, with those of Great Britain.'^{6/}

The Irish insisted that they were entitled to free trade as a right. A number of the Volunteer resolutions were similar to that of the Westport Volunteers, which held 'that the ports of this kingdom are, by right, open to all foreign countries not at war with the King... we consider this right as the gift of heaven alone.'^{7/} In 1779 the inhabitants of Belfast had called 'the enjoyment of a free and unrestrained trade, a right to which we are entitled by the laws of nature.'^{8/} Grattan spoke in this vein several times. In 1777 he labelled trade 'a franchise which it is illegal to hurt in

^{6/} V.T. Harlow, The Founding of the Second British Empire, 1763-1793, 1, 505.

^{7/} Wilson, Resolutions of the Volunteers, 124. See also: Corps of Independent Dublin Volunteers (17 Feb. 1782), Ibid, 5; Grand Jury and Freeholders of County Meath (7 March 1782), Ibid, 34; Grand Jury of the County of the City of Waterford (Spring Assizes, 1782), Ibid, 136; County Cork Meeting (15 April 1782), Ibid, 217; Down Volunteers (27 May 1780), in H. Grattan, ed., Miscellaneous Works of the Rt. Hon. H. Grattan, 161; Culloden Society of Cork (15 May 1780), Ibid, 154; Newcastle and Donore Union (16 May 1780), Ibid, 155; Freeholders of Co. Dublin (7 March 1780), in Hibernian Journal, x, 33, 15 March 1780.

^{8/} Joy, Historical Collections, 146.

any mode whatsoever;^{9/} two years later, he emphasized that 'freedom of trade is the BIRTHRIGHT OF EVERY IRISHMAN';^{10/} and in 1781, he declared that 'the King of England had no right to rob the King of Ireland of [his trade] the brightest jewel of his Crown.'^{11/} Flood spoke of Ireland's 'full right to enter into commerce.'^{12/} Bushe called Lord North's commercial propositions in 1779 a restoration of Ireland's natural rights.^{13/} The export embargo during the American Revolution was a mischief 'against the liberty of the subject' according to Hussey Burgh;^{14/} Langrishe said that it was 'unjust' to 'have prohibited the trade of a whole nation';^{15/} Mr. John Forbes, in the House of Commons, wanted 'to liberate the commerce of mankind, and to make the seas as free as nature made them.'^{16/} Burke told the two gentlemen in Bristol

that the commercial propositions really only left to the Irish

^{9/} Hibernian Journal, vii, 150, 12 December 1777.

^{10/} FJ, xvii, 22, 14 October 1779. Capitals in the original.

^{11/} The Parliamentary Register, i, 29. Also: Authentic Minutes, 39.

^{12/} Parliamentary Register, i, 84.

^{13/} Authentic Minutes, 7.

^{14/} FJ, xiii, 79, 24 February 1776. See also Mr. Robert French's comments.

^{15/} H. Langrishe, Considerations on the Dependencies of Great Britain, (London 1769), 53.

^{16/} Parliamentary Register, 151.

'the use of the natural faculties which God has given to them and to all mankind.'^{17/} Even Swift had spoken of 'the natural liberty of export.'^{18/} The pamphleteer who used this argument most extensively was the eccentric Francis Dobbs; he held that the commercial concessions were a matter of right rather than expediency, contending that 'we are a free people, and as such entitled to a free trade.'^{19/} Other pamphleteers spoke of free trade as 'agreeable to the common rights of men'^{20/} and as a right 'to which we are entitled by the laws of God, of nature and of nations';^{21/} of the 'right of mutual intercourse and commerce' granted by the law of nations;^{22/} and of 'our natural rights of commerce and trade.'^{23/} One writer even alleged that the requirement that Ireland buy hops from England was an 'infringement of our

17/ M. Arnold, ed., Letters, Speeches, and Tracts on Irish Affairs by Edmund Burke, 101.

18/ T. Scott, ed., The Prose Works of Jonathan Swift, D.D., vii, 155.

19/ F. Dobbs, A Letter to the Rt. Hon. Lord North on his Propositions in Favour of Ireland, (Dublin 1780), 8, 13, 22-23; F. Dobbs, A History of Irish Affairs from the 12th of October, 1779 to the 15th September 1782, the Day of Lord Temple's Arrival, (Dublin 1782), 13.

20/ Houlton, Selection of Political Letters, 51.

21/ Letter to Edmund Burke, 24, 25, 26.

22/ Answer to a Pamphlet written by C.F. Sheridan, Esq., entitled A Review of the Three Great National Questions relative to a Declaration of Right, Poynings' Law, and the Mutiny Bill, (Dublin 1782), 32.

23/ Letter from 'A Citizen' in FJ, xix, 101, 4 May 1782. See also the comment of Beresford (3 December 1779) in Beresford, Correspondence, 104.

natural rights'.^{24/}

The members of the patriot group felt that Ireland should have complete control over her commerce. Daly, Yelverton, Pery and Flood all defined 'free trade' as 'a trade subject to no control but that of our own Parliament.'^{25/} Francis Dobbs phrased the same argument in terms of Ireland's right to shut her ports against England, just as England shut hers against Ireland.^{26/} One of the more vitriolic writers emphasizes this definition of free trade by asserting that 'trade and manufacture can never flourish in this kingdom, until we are emancipated from British authority', and 'unless our constitution be made independent... to increase our commerce is only to render us a more valuable plunder.'^{27/} The Volunteers viewed the argument as a claim to 'as free and equal advantages of trade and commerce such as Great Britain herself enjoys.'^{28/}

Some of the patriot views of the proper commercial situation are even more sweeping. Hussey Burgh, just before resigning as Prime Serjeant, 'beseeched his Majesty to

^{24/} The Usurpations of England the Chief Sources of the Miseries of Ireland; and the Legislative Independence of this Kingdom the only Means of securing and perpetuating the Commercial Advantages lately recovered, (Dublin 1780), 15.

^{25/} Authentic Minutes, 10, 34, 49. H.M.C., rep. 8, app., i, 206b. See also: Usurpations of England, 16; Dunn, Thoughts, 21.

^{26/} Dobbs, A Letter, 13.

^{27/} Usurpations of England, 16, 27, 28, 29.

^{28/} Meeting at Large of the County of Cavan (13 March 1782), Wilson, Resolutions of the Volunteers, 52; Baltinglass Meeting (20 March 1782), Ibid, 85.

believe no temporizing expedients could save this nation from destruction, but a FREE AND UNLIMITED TRADE TO ALL HER PORTS.^{29/}

A pro-Government correspondent of Heron warned him in early 1779: 'Be assured...that Ireland never will be contented or satisfied without a full and free trade',^{30/} and the Lord Lieutenant told his Chief Secretary at the same time that 'export is the great object, and indeed the present temper of the Kingdom is such that no concession if not of that tendency will give anything resembling general satisfaction.'^{31/}

Beresford reported that 'by a free trade is meant a liberty of import and export from and to every country which chooses to trade with us.'^{32/} A writer in 1782 claimed for Ireland 'open ports, frequented by all nations except those at war with her King.'^{33/} Grattan said that 'he knew of no laws which should restrain our commerce.'^{34/} Yelverton suggested that Ireland should keep her own agents in the courts of Europe.^{35/}

Some Irishmen, however, did concede to Great Britain a

^{29/} FJ, xvii, 22, 14 October 1779. Capitals in the original.

^{30/} Letter from one Thomas Waite, apparently to Sir Richard Heron, Chief Secretary, (then in England), dated 27 March 1779, in the Heron Correspondence collection at the National Library of Ireland. (So far as I am aware, this letter is unpublished).

^{31/} Letter from Buckingham, Lord Lieutenant, to Sir Richard Heron, Chief Secretary (then in England), dated 2 March 1779, Ibid.

^{32/} Beresford, Correspondence, 104.

^{33/} Letter from 'A Citizen', FJ, xix, 101, 4 May 1782.

^{34/} FJ, xvii, 22, 14 October 1779.

^{35/} Parliamentary Register, i, 27.

'superintending power' over imperial trade, and, by implication, limitations on Ireland's trade. Langrishe, as early as 1769, held that Ireland 'with the other appendages of Britain, yields to the circumstances of the times, and complication of the British Empire, by which it has in some measure become necessary that a general superintending power should be somewhere deposited for the arbitration of commerce.'^{36/}

At the same time, Bushe asserted that 'if Britain does not reserve to herself an absolute authority over the trade of her Colonies, not one of the ends will be answered for which those Colonies were planted; they will not be subservient to the commerce of the mother country; they will rival and destroy it.'^{37/}

A later pamphleteer based the British Parliament's power to 'regulate the commerce of the whole empire' on its right to enact laws to preserve England 'as a commercial and manufacturing people.'^{38/} O'Hara told Burke that 'no man has a doubt in speculation of her [Great Britain's] power to make commercial laws for her Colonies.'^{39/} And

Burke himself, some years later, expressed his opinion that a sufficient authority must reside in England if 'the several

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- ^{36/} Langrishe, Considerations, 53.
- ^{37/} G. Parker Bushe, The Case of Great Britain and America, (2nd edition - London 1769), 41.
- ^{38/} A Candid Display of the Reciprocal Conduct of Great Britain and her Colonies from the Origin of the Present Contest to the Claim of Independency, with a Seasonable Memento to the Ruling Power of Great Britain and Ireland, (Dublin 1780), 33.
- ^{39/} Ross J.S. Hoffman, ed., Edmund Burke, New York Agent, with his Letters to the NY Assembly and intimate correspondence with Charles O'Hara, 1761-1776, 345.

bodies which make up this complicated mass are to be preserved as one empire.^{40/} A reply to the Letters of Guatimozin stated that 'the Legislature of Great Britain had a superintending care over the Trade Laws of the whole empire' in order to ensure the accretion of sufficient revenues to defray the costs of the whole empire.^{41/} Francis Dobbs was also willing to concede that 'if your fleets protect...our trade, I think we ought in proportion to that protection... contribute to its support' but felt that it ought to be the subject of a 'treaty between the two legislatures'.^{42/} At least some of the Irishmen also recognized that Great Britain would have the right to refuse to trade with Ireland, and that Ireland might not be allowed to trade with the Colonies.^{43/}

By implication, the outright demands for complete free trade opposed the idea of a British superintending power over imperial trade, but there was little specific attack on the latter theory. The pamphleteer Guatimozin answered the argument that 'we protect you at an enormous expense' with the fervent plea that 'I would to God they would try the experiment and leave us to ourselves. They would soon find that with our powerful friends we should lose our powerful

^{40/} Arnold, ed., Letters, 72.

^{41/} Letter from Cecil Wray, described as Representative for the Borough of East Redford in the British Parliament, printed in Letters of Guatimozin, 57.

^{42/} Dobbs, A Letter, 24.

^{43/} Beresford, Correspondence, 104; Dobbs, A Letter, pp. 22-23. The former indicates that some Irishmen conceded to Britain the right to bar Ireland from trade with the Colonies. Dobbs does not allow Britain this right, but gives it to the Colonies themselves.

enemies.^{44/} Another writer held a similar jaundiced view, contending that 'the mercantile empire which begins by taking from the connected country her trade, will soon proceed to make very bold attempts upon her liberty.'^{45/}

Americans did not make much of free trade as a right. Jefferson included in his Rights of British America 'the exercise of a free trade with all parts of the world, possessed by the American colonists as of natural right.'^{46/} Franklin was the only leading American who discussed free trade to any extent, and he advocated it on pragmatic grounds as a better way to peace and prosperity than mercantilism.^{47/} He did, however, state (in conversation with Lord Hillsborough during his visit to Ireland) that 'the subjects in every part of the King's dominion had a natural right to make the best use they could of the productions of their country.'^{48/}

Americans originally subscribed to the British superintending power over trade. This was a rather back-handed admission, however, as the power was only vaguely conceded in order to set about the principal business of carving out limits or exceptions to this power so as to define as unconstitutional the specific British acts which

^{44/} Letters of Guatimozin, 55.

^{45/} A Letter to the People of Ireland, (Dublin 1779), 7.

^{46/} J.P. Boyd, et al., eds., The Papers of Thomas Jefferson, i, 123.

^{47/} A.H. Smith, ed., The Writings of Benjamin Franklin, ii, pp. 313-314, 232-237; J. Sparks, ed., The Works of Benjamin Franklin, ii, 366.

^{48/} Sparks, ed., Works, vii, 556.

the Colonists were preoccupied in opposing. Dickinson, for instance, made the seemingly wholehearted admission that 'Parliament unquestionably possesses a legal authority to regulate the trade of Great Britain and all her colonies.'^{49/} But this was only page 7 of the Farmer's Letters, and Dickinson was only laying the groundwork for his distinction between taxation for the regulation of trade and for a revenue, with the weight of discussion on the latter. The Massachusetts House of Representatives echoed him in its Circular Letter of 11 February 1768, which opened by admitting the superintending power of Parliament, and then moved on to the main purpose of the Letter, the denunciation of 'duties on the People of this Province with the sole and express purpose of raising a revenue.'^{50/} Franklin, in 1767, also admitted that 'it seems necessary for the common good of the empire that a power be lodged somewhere to regulate its general commerce [and] this can be placed nowhere so properly as in the Parliament of Great Britain', but he goes on in the very next sentence to object to internal taxes.^{51/} The New York Assembly conceded as late as 1775 that obedience was due to 'all Acts of Parliament calculated for the general weal of the whole Empire, and the due regulation of the Trade and Commerce thereof' - but only if these acts were 'not inconsistent with essential rights and liberties of Englishmen.'^{52/} As American

^{49/} J. Dickinson, Letters from a Farmer in Pennsylvania to the Inhabitants of the British Colonies in North America, (Philadelphia 1768), 7.

^{50/} Reprinted from Massachusetts Gazette for 27 June 1768 in FJ, vi, 1, 3 September, 1768.

^{51/} Sparks, ed., Works, vii, 333.

^{52/} American Archives, 4th Series, i, 1302.

thought moved on to a dominion theory of empire, this superintendence became more tenuous, a concession for convenience's sake but not a right. John Adams was the strongest expounder of this view. In the Novanglus Letters he repeated several versions of the theme that 'from the necessity of a case not provided for by common law...America has all along consented, still consents, and ever will consent, that Parliament, being the most powerful legislature in the dominions, should regulate the trade of the dominions.' Adams all but repeated his words in the Fourth Resolution of the Continental Congress that 'from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British Parliament as are, bona fide, restrained to the regulation of our external commerce.'^{54/} Jefferson appeared to go beyond even this point, inasmuch as he held the trade acts 'void' because made by Parliament, and ascribed only to colonial laws the power to abridge free trade.^{55/}

On commerce the majority Irish viewpoint arrived at a more radical imperial arrangement than did the Americans. Complete free trade, which most Irishmen claimed, would have allowed little, if any, imperial supervision of commerce. Up to the outbreak of hostilities, Americans were still

^{53/} C.F. Adams, ed., The Works of John Adams, iv, pp. 99-100. See also: 33, 105, 113-114.

^{54/} Journals of the Continental Congress, i, pp. 68-69.

^{55/} Boyd, et al., Papers, i, 123, 125.

willing, at least in theory, to allow some regulation of their trade, as a concession, if not as a right. The difference, perhaps, reflects the significantly different impact of the commercial restrictions on Ireland and America. Ireland was most severely bound by the restrictions. The Irish were a close and easily perceived commercial threat; they were under the ready thumb of British power. Ireland's commerce and prosperity suffered sharply, and sometimes severely, from these restrictions. Their removal was a clear and pressing need, and led the Irish to strong and rather sweeping views on the subject. The Americans were irritated and somewhat handicapped by the commercial restrictions but the colonies, far from being oppressed, were generally prospering. To the British traders they represented a profitable and largely complementary market. The 3,000 miles of ocean also lessened greatly the severity of the actual enforcement of the restrictions. On the narrow question of economics, the Americans would have had no substantial objections to the commercial restrictions as actually enforced prior to 1765. Even the efforts to impose more fully the mercantile laws did not pose a dire threat to the commercial well-being of America. Instead, the clash of imperial mercantilism and colonial aspirations was a constant spur to American development of constitutional theory to rationalize their growing role in the Empire. The Irish were

vitaly concerned with commercial freedom; the Americans placed commercial considerations as an element in the question of overall imperial relationship.

relationships were very few. For convenience they are re-capitulated below. A good idea of the more limited Irish speculation in this sphere can be obtained by comparing the fragmentary nature of this material with the considered and lengthy American dissertations on imperial theory.

The only Irish exposition of constitutional doctrine which might be considered a complete treatment was a pamphlet by Charles Francis Sheridan entitled Observations on the Doctrine Laid Down by Sir William Blackstone respecting the extent of the Power of the British Parliament particularly with relation to Ireland.^{1/} His pamphlet follows much the

same line of reasoning as James Wilson had earlier used in America in his consideration of the powers of Parliament.^{2/} The consequence of Sheridan's views in his pamphlet was a dominion theory of empire, with each part of the empire maintaining its own autonomous legislature, and the empire acting as a unit only in foreign affairs. Sheridan did not offer any explanation as to how this unity was to be obtained or maintained. However, there is no indication that either Sheridan or his publication was influential in

^{1/} Dublin, 1779.

^{2/} See Page 85 above for details of Sheridan's pamphlet.

CHAPTER X

IRISH IMPERIAL THEORIES

Fully fledged Irish studies of overall imperial relationships were very few. For convenience they are re-capitulated below. A good idea of the more limited Irish speculation in this sphere can be obtained by comparing the fragmentary nature of this material with the considered and lengthy American dissertations on imperial theory.

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^{1/} Dublin, 1779.

^{2/} See Page 83 above for details of Sheridan's pamphlet.

the development of Irish constitutional thought. In fact, Sheridan shortly afterwards radically changed his opinions, and became a consistent Administration supporter. There is no evidence, but the explanation might be that he was 'bought off' by the Government. At any rate, he regularly voted against the patriot motions in the House of Commons, and only two years later he wrote a pamphlet, quite contrary to his first one, arguing that the repeal of Poynings' Law and other reforms were unnecessary.^{3/}

Although they seldom went into detail, the Irish were essentially advocating a system of empire similar to that first expounded by Sheridan in their insistence on the exclusive competence of the Irish Parliament. Charlemont disclaimed 'all distinction between external and internal legislation.'^{4/} Volunteer resolutions labelled government 'by a foreign legislature, over which we have no control, absolute slavery.'^{5/} It was pointed out that 'we acknowledge ourselves subordinate unto the crown imperial of Great Britain [but] we cannot annex to the word Sovereign an idea of multitude... it does not imply the Privy Council, or the Lords,

^{3/} C.F. Sheridan, A Review of the Three Great National Questions relative to a Declaration of Right, Poynings' Law and the Mutiny Bill, (Dublin 1781).

^{4/} H.M.C., rep. 12, app., x, 96.

^{5/} Connaught Volunteers (15 March 1782), C.H. Wilson, ed., A Compleat Collection of the Resolutions of the Volunteers, Grand Juries etc., of Ireland, 60: Union Regiment (8 April 1782), Ibid, 184; High Sheriff and Grand Jury of Co. Antrim (22 March 1782), Ibid, 97.

or the Commons of Great Britain'.^{6/} Yelverton said that 'when I rise to enter my protest against the interference of the British parliament, I do it to perpetuate the supremacy of the King.'^{7/} In fact, one pamphleteer took the King to task for having assented to the Declaratory Act (6th of George I), holding that 'the crown encroached on our liberties, when it gave them away to the British parliament'.^{8/} Another writer also contended that 'England and Ireland are both parts of an Empire, to which England, being the largest and most populous, gives its name, and this not as a matter of right, but as a matter of decorum'.^{9/} If empire 'necessarily implies [that] the weaker are to be at the mercy of unknown will and extemperaneous law', it was held that 'the laws of God and nature cry aloud against such union'.^{10/}

^{6/} Letter III from 'Decius', FJ, xvi, 117, 20 May 1779. I rearranged the order of the sentences for the sake of greater clarity.

^{7/} Debates of the House of Commons of Ireland on a Motion whether the King's most excellent majesty, and the Lords and Commons of Ireland are the only Power competent to bind or enact laws in this kingdom, (Dublin 1780), 19.

^{8/} Answer to a Pamphlet written by C.F. Sheridan entitled A Review of the Three Great National Questions etc., (Dublin 1782), 34.

^{9/} 'Toby Butler's Ninth Letter' in the Freeman's Journal, xvii, 94, 30 March 1780.

^{10/} A Letter to Edmund Burke, Esq., by birth an Irishman, By Adoption an Englishman, containing some reflections on Patriotism, Party Spirit and the Union of Free Nations, with Observations upon the means on which Ireland relies for obtaining Political Independence, (Dublin 1780), 35. See also: A letter to the Right Hon. The Earl of Hillsborough, Secretary of State for the Southern Department on the Present State of Affairs in Ireland and an Address to the People of that Kingdom, (Dublin 1780), 14, 19; F. Dobbs, A Letter to the Rt. Hon. Lord North on his Propositions in Favour of Ireland, (Dublin 1780), pp. 20-22; H. Grattan, ed., Miscellaneous Works of the Right Hon. Henry Grattan, 191.

Our political creed is summarily this, to believe England and Ireland to be sister kingdoms, united only by being placed under one and the same supreme head, their common king, parent, and protector. We believe that each realm has its imperial crown, its distinct dominion, and independent parliament, which ought to be subordinate to no legislative authority upon earth. Every assumption of an external legislature of a right to bind this antient kingdom, by laws to which it has not given consent, we firmly believe to be an innovation on the constitution, an infringement of royal prerogative, and an invasion of those rights to which we are entitled by the laws of God, of nature and of nations. 11/

~~which~~ A number of Irish writers, however, emphasized that Britain possessed, as a matter of right, a general superintending power. Charles O'Hara wrote to Burke that 'I comprehend...your right to bind them to a connection with and dependence on the mother country' 12/ and that 'the establishment of dominion upon general principles never will be objected to'. 13/

A pamphleteer in 1780 offered a reasoned justification of this attitude: 'There must be a

~~matters, and felt that this superintending power should~~

11/ Letter to Edmund Burke, pp. 24-25. See also: 'Address and Instructions of the Freeholders of Co. Antrim to the Hon. Henry Skeffington and Alexander Crookshank, representatives of the Borough of Belfast' (23 March 1780), in H. Joy, ed., Historical Collections relative to the Town of Belfast from the Earliest Period to the Union with Great Britain, (Belfast 1817), 151. This doctrine in relation to America was also set out by a writer to the Freeman's Journal in 1775, quoted on page 81 above.

12/ Ross J.S. Hoffman, ed., Edmund Burke, New York Agent, with his Letters to the New York Assembly and intimate correspondence with Charles O'Hara, 1761-1776, pp.402-403.

13/ Ibid, 345. It was also Burke's view that 'an authority... must reside somewhere: that somewhere can only be England' which was expressed in his well-known letter to Sir C. Bingham in 1773. See M. Arnold, ed., Letters, Speeches and Tracts on Irish Affairs by Edmund Burke, 72. See also a letter to O'Hara in 1775 in Hoffman, Burke, 589.

power lodged somewhere from whom those rights must impartially flow, and...that power... must have a controlling influence in every corner of the empire.^{14/} This same writer also answered the contention that Ireland's only loyalty was to the Crown, by pointing out that the King was sovereign of Ireland by virtue of being sovereign of England, a position which the King owed to an English Act of Parliament.

Therefore, 'he cannot govern us by any other measures, but such as are adopted by his British parliament, as tending most to the interest of the whole family which the order of providence has committed to his care.'^{15/}

These writers did not push this view to any sweeping doctrine of centralized imperial power. They conceded to the separate parts of the empire competence in 'internal' matters, and felt that this superintending power should, in practice, only be exercised 'for the arbitration of commerce and for directing, restraining and regulating the external relations between the different members of the empire.'^{16/} Bushe and O'Hara spoke in almost identical

14/ A Candid Display of the Reciprocal Conduct of Great Britain and her Colonies from the Origin of the Present Contest to the Claim of Independency, with a seasonable memento to the ruling powers of Great Britain and Ireland, (Dublin 1780), pp. 32-33.

15/ Ibid, 39.

16/ H. Langrishe, Considerations on the Dependencies of Great Britain, (London, 1769), 53.

18/ Candid Display, pp. 33-34, 38.

commerce' and suggested that the imperial commercial power be defined in a British act which would be agreeable to the Americans.^{17/} The pamphleteer in 1780, mentioned above, entered into this point at some length:

'[England's] very existence as a sovereign state depends upon her trade and manufactures...it can certainly regulate the commerce of the whole empire, for a denial of this would be a denial that it has the power to preserve itself. And, if England is to have any degree of sovereignty over Ireland, I do not know where it can be admitted with a smaller infraction of liberty, than in the regulation of commerce... Besides... the existence of her trade and of the trade of all her dependencies, rests entirely on the protection received from her navy... there is a peculiar propriety and justice in laying the chief burthen of supporting her navy upon her commerce, and in obliging every part to pay in proportion to their liberty, and in proportion to the protection they stand in need of and receive... we have no trade, but under the protection of England... we have no influence as a nation with other nations'.^{18/}

There was only one Irish suggestion for a comprehensive re-organization of empire. The proposal envisaged a confederation, which was remarkably like that which the American States later tried unsuccessfully:

Suppose then that the several distinct parts of the British empire, Ireland, America, and even the East India Settlements... were all firmly united as Confederate States with Great Britain - each of the remote members to send a certain number of representatives to sit in the great Common Parliament of the empire, at London - to consult jointly upon the general interests of the confederacy, and to adjust the quota of supplies to be furnished by each part to the Common Fund, the treasury of the empire; whilst every province should retain its own distinct parliament, to regulate its interior policy and the proper means of raising its proportion

^{17/} G. Parker Bushe, The Case of Great Britain and America, (Third Edition - Dublin 1760), 40; Hoffman, Burke, pp. 402-403, 345.

^{18/} Candid Display, pp. 33-34, 38.

of the general supply. A perfectly equal freedom of trade to prevail throughout the whole empire... [after] some reasonably distinct fixed period... all and each of the united states should be perfectly free to withdraw from the association, if any judged itself really aggrieved. 19/

Pery, Speaker of the Irish House of Commons, offered perhaps the viewpoint on imperial constitutional theory most symptomatic of the subconscious Anglo-Irish attitude when he lamented that 'it is unfortunate that the extent of the sovereignty of Great Britain has ever been defined. It should have remained a mystery, and never called forth but upon the utmost necessity to save the empire, and then it would have been submitted to without reluctance.' 20/

19/ Renovation Without Violence Yet Possible, (Dublin 1779) 10, 18.

20/ H.M.C., rep. 8, app., i, 207b.

FINIS

APPENDIX A

Re-publication in Ireland of American and British Views

on the Constitutional Dispute in America.

The number of occasions on which American views were re-printed in the Irish Press was too great to note every one. The items re-published can be grouped in four general categories: leading American statements of constitutional theory; correspondence from America; the proceedings of provincial legislatures and other local groups; and news of events in America related to the constitutional dispute. For each of these categories there is cited below a random, but relatively comprehensive, selection of Irish re-publication of American views:

American views on constitutional matters:

'To the Merchants and Manufacturers of Great Britain; the Memorial of the Merchants and Traders of the City of Philadelphia', FJ,iii, 62, 8 April 1766; The Non-Importation Association, *ibid*, xii, 51, 22 Dec. 1774; 'Address of the American Congress to the Inhabitants of the Province of Quebec', *ibid*, xii, 59, 10 Jan. 1775; 'Petition of the American Congress to the King', *ibid*, xii, 72, 9 Feb. 1775; 'Declaration on the Cause and Necessity for Taking Up Arms', *ibid*, xi, 121, 22 Aug. 1775; Oration by John Hancock to commemorate the 'Boston Massacre', *ibid*, xi, 121, 4 June 1774; Josiah Quincy, 'Observations on the Boston Port Bill', *ibid*, xi, 146, 2 Aug. 1774; The Articles of Confederation, *ibid*, xiv, 6 Feb. 1777; T. Paine, 'Common Sense', *ibid*, xiii, 132, 27 June 1776 and following; 'Address of Congress to the Inhabitants of the United States of America', *ibid*, xv, 147, 31 Aug. 1778; 'Comments on the Peace Commissioners' by 'an American' but 'said to be written by Mr. Adams', FJ, 11, 15 Sept. 1778; T. Paine 'The Crisis', *ibid*, xviii, 10, 14 Sept. 1780. Walker's Hibernian Magazine also reprinted many of these items.

Correspondence from America:

Letter from a merchant in Philadelphia, FJ, ii, 104, 3 Sept. 1765; Letter from a Gentleman in Virginia, FJ, iii, 15, 26 Oct. 1765; Letters from America regarding the Massachusetts Circular Letter, FJ, vi, 5, 17 Sept. 1768; Letter from Baltimore to Dublin, and Letter from a woman in Philadelphia to her sister in Dublin, FJ, xiii, 141, 20 July 1775.

Proceedings of Legislatures and Local groups:

Resolutions of Virginia House of Burgesses, FJ, iii, 15, 26 Oct. 1765; Pennsylvania House of Assembly, FJ, iii, 27, 7 Dec. 1765; Massachusetts House of Assembly to the Governor, FJ, iii, 35, 4 Jan. 1766; Talbot County Resolves, FJ, iii, 46, 11 Feb. 1766; Proceedings of Sons of Liberty in New York, FJ, iii, 47, 15 Feb. 1766; Massachusetts House of Assembly Petition to King against Governor Bernard, FJ, vi, 11, 8 Oct. 1768; Circular Letter from Massachusetts House of Representatives, FJ, vi, 1, 3 Sept. 1768; Resolutions of Bedford County, Penn., and Salem, N.J., FJ, xii, 9, 15 Sept. 1774; Suffolk County Resolves, FJ, xii, 33, 10 Nov. 1774; "The Representation and Remonstrance of the General Assembly of the Colony of New York" (presented to British House of Commons by Burke), FJ, xii, 117, 25 May 1775; Resolutions of several American towns against the Coercive Acts, FJ, xi, 152, 6 Aug. 1774; Proceedings between the Governor of Massachusetts and the House of Assembly, FJ, xi, 154, 20 Aug. 1774; Address of Governor to Pennsylvania legislature regarding Lord North's conciliation proposal, and reply, FJ, xii, 131, 27 June 1775; Address of Massachusetts House of Representatives to the People of Massachusetts against the Peace Commissioners, FJ, xiv, 102, 11 April 1777.

American news related to constitutional dispute:

Whole front page and part of second devoted to reports from all parts of America regarding opposition to Stamp Act, FJ, iii, 31, 21 Dec. 1765; FJ, iii, 32, 24 Dec. 1765; FJ, iii, 35, 4 Jan. 1766; FJ, iii, 46, 11 Feb. 1766; 'On account of the late advices from America, in which the subjects of these kingdoms are deeply interested, we chose to postpone several of our correspondents' favours to give the news from that continent entire', FJ, xii, 51, 22 Dec. 1774; first sketchy and inaccurate report of the fight at Lexington and Concord, FJ, xii, 113, 16 May 1775; reports on Lexington and Concord, FJ, xii, 122, 6 June 1775; FJ was full of American news during June 1775.

It was also not feasible to note every publication in

Ireland of British parliamentary debates and other British proposals on American matters. The following is a brief selection of citations of such instances:

Debate in British House of Commons on Coercive Acts, FJ, xi, 95, 5 April 1774, and following; Burke's speech on American taxation, Walker's Hibernian Magazine, v, Feb. 1775; Speech of the Lord Mayor of London, ibid, v, Mar. 1775; Debate in British House of Lords regarding troops in Boston, FJ, xii, 67, 28 Jan. 1775; Same debate in House of Commons, FJ, xii, xii, 68, 31 Jan. 1775; Speech of Chatham in this debate, FJ, xii, 73, 11 Feb. 1775; Debates in both Houses on North's conciliation plan, FJ, xii, 74, 14 Feb. 1775; virtually every issue of FJ in the spring of 1775 reported British parliamentary debates on America; Petition to the King from Lord Mayor, Alderman and Livery of the city of London, FJ, xii, 101, 18 April 1775; Burke's letters to the Sheriffs of Bristol on Affairs in America, FJ, xiv, 118, 25 May 1777 and following; the Commission to the Peace Commissioners to America, FJ, xvi, 44, 1 Dec. 1778. British discussions of Irish affairs were also reprinted. For instance: Burke's letters to the Gentlemen of Bristol regarding Irish trade, Belfast Newsletter, Nos. 4258 and 4259, 26 May and 29 May 1778; British parliamentary debates on Irish affairs, FJ, xvii, 48, 14 Dec. 1779 and following.

APPENDIX B

Extracts from Resolutions of the Volunteers and
Other Civic Bodies.

Volunteer groups and civic bodies throughout Ireland, principally during the Spring of 1782, passed resolutions supporting the various contentions and aspirations of the Patriot movement. These resolutions formed an important body of sentiment on constitutional matters, and I have quoted ideas from many of the resolutions in all the chapters of my thesis. To give an indication of the content and scope of these resolutions I have presented below extracts from a few representative resolutions. Others were shorter or dealt in large part with non-constitutional questions. Many repeated verbatim previous resolutions, particularly those passed at the Dungannon Convention of the Ulster Volunteers in February 1782.

Meeting at Large of the County of Cavan, 13 March 1782:

We declare, That we will pay obedience to those laws only which are made by our own legislature, the King, Lords and Commons of Ireland, as the very terms of our original compact with Great Britain are, that we shall possess and exercise the full enjoyment of the British constitution. As external greatness and constitutional extension were the objects of Great Britain in that compact, as external security and constitutional liberty were the objects of Ireland, whatever

attended with the happiest success
leads to separation on the part of the latter, or
infringement on the part of the former, is a violation to
both.

and Justice, therefore, as well as self defence, dictate
a repeal or explanation of the law commonly called Poyning's
Law, and the explanatory one of the 4th and 5th of Phillip
and Mary, which we consider as an unconstitutional sacrifice
of the rights and liberties of the people, either in its
first origin or subsequent misconstruction, which were not
in the power of a parliament to give away

As we feel ourselves, equally with Great Britain, bound
by every treaty of the King we feel ourselves, equally with
Great Britain, entitled to every benefit deriving from them;
we, therefore, claim as free and equal advantages of trade
and commerce with every nation as Great Britain herself
enjoys.....

Bandon Meeting, 25 March 1782:

Resolved unanimously, That we look upon religious
toleration as highly advantageous to society, as powerfully
aidant [sic] to civil liberty, as necessary for the strength
and happiness of a state, and that we feel the greatest joy
at the relaxation of those severe laws which affected the
Roman Catholic inhabitants of this kingdom; a measure most
wise, most political, most necessary, and which must be

attended with the happiest consequence, and produce a perfect union among all the people of Ireland.

Resolved unanimously, That we regard our fellow-subjects of Great Britain with the most sincere affection, and wish always to maintain the closest connection with them, convinced that such is absolutely necessary for the strength and preservation of both kingdoms; but as we are willing to share their fate in the extremities of dangers, we are resolved to enjoy the free constitution they boast, and to which we are equally entitled.....

Resolved unanimously, That the doctrine of power conferring right is erroneous, contrary to all systems of natural law, founded upon principles that are absolutely false, and tending towards the subversion of the natural rights of mankind.

Resolved unanimously... That the Commons of Ireland, in parliament assembled, are the representatives of and derive their power solely from the people.

County Mayo Meeting, 24 March 1782:

Resolved, That the very word Representative, implying a delegated, not a personal right, men who are elected into that office ought, like trustees in private life, be subject to the control of those for whose benefit they were entrusted.

Resolved, That a bill limiting placemen and pensioners in parliament to a very small number, would be the most

effectual means of plucking up corruption by the roots.

Resolved, That this kingdom ought to equalize its expense to its revenues. It appears to us equally ruinous in a nation, as in an individual, to engraft present extravagance upon future and contingent wealth.

County Cork Meeting, 15 April 1782:

Resolved unanimously, That national and independent legislation, being the fundamental right of the subject, without the establishment of which we can never hope for security to our persons or our properties, is an object of great national importance; and that we will assert, promote, maintain and defend this and all our other natural and inherent rights, by every constitutional means.....

and Resolved unanimously, That any restriction on the commerce of this kingdom, imposed by proclamation, particularly during the sitting of parliament, is injurious to the spirit of our constitution, hath been pernicious, and may be fatal to our trade.

Resolved unanimously, That as we hold the interests and connections of Great Britain and Ireland to be inseparable so we also declare their legislatures to be distinct and independent of each other; and that the security and firmness of the former can only be maintained by the establishment of the latter.

extensive unanimity, the firmness, and the moderate and

APPENDIX C

Presbyterian Comment on Constitutional Matters.

Material presenting Presbyterian comment on constitutional matters proved to be very difficult to locate. Extensive searching failed to disclose constitutional theorizing of any extent by Presbyterians, but I did find several expressions of opinions related to subsidiary aspects of the constitutional question. I have gathered these quotations together below.

Statement by the Dissenting Congregation of Clough, County Down, 28 April 1782. (Wilson, Resolutions of the Volunteers, 277):

Sensible of the rights of men from what we feel in ourselves, and animated by the purest sentiments of liberty and benevolence, we cannot help expressing our satisfaction at the recent progress of religious toleration in the christian world. The arm of authority is learning to unbind the chains which bigotry hath long rivetted; the mind is beginning to resume a sense of its native excellence and the best consequence may be expected.

We heartily partake with the friends of civil liberty, also, in the great self-complacence which they must at present enjoy, from the flattering prospects of success in their virtuous struggles, and we sincerely congratulate our fellow citizens in this kingdom, in particular, upon the extensive unanimity, the firmness, and the moderate and

generous spirit of their late resolves. We see baneful counsellors sulking from the merited vengeance of an injured people, and corruption tottering to its fall; we see the kind of justice ready to distribute equal privileges to all his Majesty's subjects, and true policy anxious to unite the British empire in mutual confidence, prosperity and peace; we see our ancient enemies trembling at the force which economy, patriotism and union are likely to bring against them; and we rejoice.

And we further declare, That the man who attempts to suppress the people's voice in public affairs, or who barter the more general welfare to private emolument, shall, hereafter, meet our warmest opposition, as we look upon a fair representation of the people as the best security of constitutional rights; and are determined to co-operate with our fellow citizens in every measure which may tend to promote the independence of parliament.

Wm. Campbell, D.D., Sketches of the History of issue.
Presbyterianism in Ireland (manuscript at Presbyterian The
Historical Society, Belfast):
1775. A most extraordinary scene opened this year, the
effects of which will reach to the remotest posterity, and
to the most distant parts of the earth; that is the attempt
of Great Britain, in the plenitude of power, or as they

affected to speak, by the omnipotence of parliament, to subjugate her colonies in America.

The Presbyterians of Ulster condemned this war as unjust, cruel and detestable. They beheld it with anguish and with horror, as the most wanton, unprovoked despotism... England, a country where (they now reflected more deeply than ever) men speak of liberty without understanding it, and for which they never had a taste, except in words; and which they were determined, so far as they could, that no other nation should enjoy; and whose power has been baneful to every people who had the misfortune to be connected with them, in every part of the globe. This is spoken in regard to their government for it is well known there is a considerable party in England of liberal sentiments, who wish for a free constitution and equal parliaments; but government and the great body of people are decidedly in favour of the old tory principles of slavery.

The Presbyterians of Ulster considered the Americans as fighting their battle as well as their own, and that the liberties of the empire at large depended on the issue. These sentiments they avowed in the most open manner. The success, therefore, of the Americans in the noble, arduous struggle, could not fail to give them the highest satisfaction, which they were far from concealing.

...to have offered up prayers for the success to the

English arms in a war they thought so very iniquitous, would have been a prostitution of character, a solemn mockery of divine things approaching perhaps to blasphemy.

The tory faction did not miss the opportunity of representing them as disaffected and republican: the usual cant. (pp. 235-6).

1778. The claim of omnipotence by the English parliament was poorly supported in her American crusade. For in consequence of the inability of Great Britain to perfect the empire, and the avowed weakness of the Irish government to repel the enemy who insulted their coasts, the defence of the Kingdom devolved on the people of Ireland; which they instantly undertook with a spirit that did them the highest honor. (p.239).

Extracts from Letters of William Drennan to His Sister.

(Collection at Public Record Office of Northern Ireland):

We owe the repeal of the Vestry-Bill to the Dispute with America, Poor America - Much do I fear for it - if it be conquered, Let us prepare for the Universal Conflagration. (3 April 1776 ?).

...were I to choose an emblem for the American great seal, it should be a Hercules as yet but in cradled infancy, strangling the serpents of Taxation and Despotism, sent by an envious step-dam to destroy the child of heaven. (4 May 1777).

...I wait for a Decision of this campaign in America not with the cold solicitude of a good Citizen... but with all the anxiety of one interested in the welfare of Mankind. (23 November 1777).

No object can be thought of more melancholy than a great Empire that has thus outlived itself and is now degenerating into a state of Political Dotage, prophetic of its final Dissolution. (Writing of Burgoyne's defeat at Saratoga). (13 December 1777).

extremely verbose, but from a mass of extraneous material pertinent comments were gleaned by a careful and methodical examination of its issues. Because of its patriot sympathies this newspaper also reprinted an extensive selection of items from America and Great Britain. Virtually all important statements of the Continental Congress, colonial legislatures and local bodies were reprinted, and excerpts were published from the writings of such men as John Adams and John Dickinson. Events in America were reported in tardy but satisfactory fashion in the news columns. Another helpful feature, beginning in the mid-1770s, was a regular item, 'Parliamentary Register', reporting the Irish parliamentary discussions. This is particularly valuable as it is the only source which provides a continued summary of the viewpoints expressed by members of the Irish Parliament. This information is not given in the Journals of the Houses of the Irish Parliament.

(The 'Parliamentary Register' ... book form
beginning with the

BIBLIOGRAPHY

The other ... The ...
Journal reprinted.

COMMENT ON SOURCES

The most rewarding single source is the Dublin newspaper Freeman's Journal (founded 1763). It represented the patriot point of view, and, therefore, received a great deal of correspondence from patriot partisans. Much of the writing was extremely verbose, but from a mass of extraneous material many pertinent comments were gleaned by a careful and methodical examination of its issues. Because of its patriot sympathies, this newspaper also reprinted an extensive selection of items from America and Great Britain. Virtually all important statements of the Continental Congress, colonial legislatures and local bodies were reprinted, and excerpts were published from the writings of such men as John Adams and John Dickinson. Events in America were reported in tardy but satisfactory fashion in the news columns. Another helpful feature, beginning in the mid-1770s, was a regular item, 'Parliamentary Register', reporting the Irish parliamentary discussions. This is particularly valuable as it is the only source which provides a continued summary of the viewpoints expressed by members of the Irish Parliament. This information is not given in the Journals of the Houses of the Irish Parliament.

(The 'Parliamentary Register' is collected in book form beginning with the years 1781-1782.)

The other newspapers are disappointing. The Hibernian Journal reprinted many American items and carried the 'Parliamentary Register', but it did not attract controversial correspondence as did the Freeman's Journal. The other newspapers contain no more than a very occasional letter, reprint or other comment. The Belfast Newsletter is particularly disappointing, as it does not provide any information on Presbyterian and Scot-Irish viewpoints, and contains little indication of Northern reactions to American developments. The few comments which appeared in the paper are gathered in the booklet Historical Collections relative to the Town of Belfast, compiled by Henry Joy, editor of the Newsletter.

The great mass of pamphlets produced during this period is not as helpful as might be expected. A good deal of useful comment can, however, be extracted from the pamphlet material. Only a few pamphlets are more or less pertinent in their entirety. A large amount of verbiage has to be gone through to extract the occasional relevant comments in the other pamphlets. The list of pamphlets given below includes all those in which I found any observations related to constitutional theory, although in some cases these remarks are only incidental to the main themes of the pamphlets.

To give some idea of the relative pertinence of each pamphlet to the subject of this thesis I have indicated in parenthesis after each pamphlet the pages on which I noted comment having some bearing on constitutional subjects. The readiest source for a comprehensive survey of the pamphlet material is the Halliday Collection at the Royal Irish Academy, Dublin. Generally, the volumes containing pamphlets on political matters, for the appropriate years, should be consulted, some fifty volumes in all.

Material is reasonably adequate on the views of the leading members of the patriot group. All of Grattan's material apparently is included in the Memoirs, Speeches and Miscellaneous Works published by his son, although the organisation of these books is extraordinarily poor, and the verbosity almost overwhelming. The ideas of the Earl of Charlemont are made plain in the Charlemont Manuscripts in the Royal Irish Academy, and those published by the Historical Manuscripts Commission. Lucas wrote prodigiously, but tediously. Many of his pamphlets are in the Halliday Collection, and some of his speeches are recorded in Caldwell's Debates. Lecky states that Lucas' pamphlets and addresses were collected in one volume (Leaders of Public Opinion in Ireland, i, 41) but I was not able to find this publication. Flood's Memoirs, also published by his son, are not as helpful. Direct expressions of Flood's views are

scanty; most are found in the 'Parliamentary Register' appearing in the Freeman's Journal.

The personal papers and correspondence of the secondary members of the patriot group have apparently been lost. This is a pity as these materials would have been most helpful in outlining the views of 'average' members of the Ascendancy who inclined to the patriot viewpoint. Grattan and Charlemont, in some ways, appear to represent a rather atypical development of Anglo-Irish attitudes (e.g., Grattan's very strong insistence on Catholic emancipation), and occasionally it is somewhat difficult to relate their material to the general social context in which they moved. With the kind and valuable assistance of the Genealogical Office, I succeeded in tracing down to the present date the descendants of most of the secondary members of the patriot group, but in no case do any of these persons have or know of any private papers of or relating to their ancestors.

The search for Presbyterian comment was particularly frustrating. One would think that with the close personal connections at that time between the Presbyterians and America there would have been a good deal of comment. The emigration itself is well described in R. J. Dickson, An Investigation into the Causes, Extent and Character of the Emigration from the Northern Ports of Ireland to Colonial America, with Particular Reference to the Activities in

Ireland of Promoters of American Lands, an unpublished Ph.D. thesis presented to the Queen's University of Belfast, March, 1945. However, I was only able to find a few passing remarks with any real pertinence to constitutional theory in a hand-written manuscript by Dr. Wm. Campbell among the records of the Presbyterian Historical Society in Belfast, and in a few unpublished portions of the early Drennan letters at the Northern Ireland Public Record Office. A statement in 1782 by the 'Dissenting Congregation of Clough, Co. Down' is published in Wilson's Resolutions of the Volunteers. The Records of the General Synod of Ulster from 1691 to 1820 give no information of this type. I also carefully looked into an example of group emigration, the departure to America, in 1764, of the Presbyterian congregation of Cahans, Co. Monaghan, led by their minister, Dr. Thomas Clark, a leading Presbyterian controversialist. The minutes of the Session are little more than a catalogue of sinners! They do not contain any comment on the exodus nor any indication of contact between those in America and the members remaining in Ireland. They are entirely blank - without explanation - from 1778 to 1783. The manuscript Minutes of the Session of Cahans Presbyterian House, 1751 - 1802 are in the custody of the Rev. James McAdam, The Manse, Clones Rd., Ballybay, Co. Monaghan. Mr. McAdam also kindly inquired among his congregation for any resolutions passed by the meetings of Volunteers and other

pondence or papers from the period of the exodus, but none were found. Apparently, as in America, 'the Ulster-Scottish contribution...was in the field of action, not in the field of thought'. (T.W. Moody, 'The Ulster Scots in Colonial and Revolutionary America' in Studies, XXXIV, June, 1945, 219.)

There is virtually no other manuscript material, except the Charlemont Manuscripts at the Royal Irish Academy. I investigated all of the possibilities that seemed even remotely feasible through the co-operation of the National Library of Ireland, the Public Record Office, the Northern Ireland Public Record Office, Queen's University of Belfast, Trinity College, the Linen Hall Library, the Royal Irish Academy, and the Presbyterian Historical Society, with almost completely negative results. I also checked, for possible passing comments, such contemporary sources as the records of the Committee of Merchants (predecessor of the Chamber of Commerce) at the Royal Irish Academy, and the Vestry records at Monkstown (Co. Dublin) Parish Church. The only information of marginal pertinence are a few comments contained in correspondence between Buckingham, Lord Lieutenant, and his Chief Secretary, Sir Richard Heron, in the Heron Collection at the National Library of Ireland. Count For 1782 and the years immediately preceding, an indicative source of material is the multitude of resolutions passed by the meetings of Volunteers and other

civic organisations. A large and representative collection of these statements is gathered in Wilson's Resolutions of the Volunteers. Many were also included by Grattan's son in the several publications of his father's Memoirs, Speeches and Miscellaneous Works. In addition, a large number of the resolutions appeared as paid advertisements in the Freeman's Journal.

Most of the secondary material is helpful in partial fashion - summarizing some facet of the subject or offering pertinent ideas. Despite some omissions and inaccuracies, Lecky's History of Ireland in the 18th Century is still the clearest and most useful summary of the period; he is very scanty, however, on constitutional theory. Perhaps the most useful of the other secondary works is Professor McDowell's study of Irish Public Opinion during the period. Although, again, the comment directly on constitutional theory is limited, it contains helpful summaries of related ideas, and the bibliography, particularly the comprehensive list of pamphlets, is very helpful. The life of Ireland in this period, which is useful for an understanding of the political developments, is well delineated in Professor Constanta Maxwell's books, Dublin Under the Georges, and Country and Town Under the Georges.

Little can be added about the American material. I generally used the standard collections of the works of the

leading American writers. I took advantage of a holiday in the United States during the autumn of 1956 to check a few other sources. Earlier, on a visit to Oxford I was able at Rhodes House to obtain some American material that I had not been able to locate in Dublin. Rossitor's Seedtime of the Republic, as a recent and exhaustive study of the emergence of American political theory and attitude in this period, stands out as an excellent summary of much of the American side of the imperial constitutional question.

Many of the American works dealing with the background of the American Revolution briefly mention Ireland, but generally only to note the occasional comments by American writers regarding Irish developments. The principal examinations of the Irish constitutional material in connection with the American controversy are by Professor McIlwain in his well-known, The American Revolution: A Constitutional Interpretation, and by Professor Schuyler, in his refutation of McIlwain, Parliament and the British Empire.

I find myself in thorough agreement with Professor Schuyler. Professor McIlwain maintains that the American position was the constitutionally correct one. From an examination of Irish precedents, and other material, he contends that there was a historical distinction between the 'Crown within the Realm' and the 'Crown without the Realm'

and that the English Parliament had never been competent to legislate for the latter. However, I found that McIlwain examines the Irish precedents only superficially and rather uncritically. Schuyler goes into this material in a great deal more detail. The evidence on Irish and other precedents marshalled by Schuyler and in works on parliamentary history such as Richardson and Sayles and others appears to place it beyond doubt that McIlwain's thesis is out of accord with the historical development of Parliament. It originated as the 'King in Council' and there is abundant evidence that the Crown on many occasions legislated for areas outside of England, such as Wales, Calais, the Isle of Man, the Channel Islands, and Ireland. I agree with Schuyler's summary:

As far back as we can go in the history of the council, it appears as the King in action. It exercised authority over the dominions simply because it was the King's council and they were the King's dominions. (p.39)

The original American material that I was able to consult was very limited. I have listed these few American periodicals or pamphlets only to indicate the sources I used. They are not meant to constitute a representative selection of sources. A comprehensive listing of American periodicals is given in the footnotes to Rossiter's book. My bibliography lists only those American works that I consulted. It is not meant to be exhaustive.

I. PRIMARY SOURCES

Periodicals

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The Belfast Newsletter (Belfast) Began publication 1757.

Walker's Hibernian Magazine (Dublin) Began publication 1771.

American

(I cite articles from the American periodicals listed below.)
(In most cases my citations of these articles are actually to)
(secondary sources. This listing is not meant to be)
(comprehensive. See 'Comment on Sources'.)

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(indicate the pages on which material pertinent)
(to constitutional matters is found. See)
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1771

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1776

The
(4, 5, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24,
50-51, 43, 55, 56, 57, 58, 59). The author of
these letters is in several respects
as Dr. F. Jobb, found no direct evidence
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as Dr. F. Jebb, but I found no direct verification
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